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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92025859
Party	Plaintiff Empresa Cubana Del Tabaco d.b.a Cubatabaco
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Signature	/Lindsey Frank/
Date	06/22/2021
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

Date registered: June 6, 1995

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EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----	X	

PARTY DESIGNATIONS\*: Petitioner's Designations During Its Trial Period—Yellow or Pink  
Respondent's Designations During Its Trial Period—Green  
Petitioner's Designations During Its Rebuttal Period—Blue

**Designated TTAB Discovery Deposition Transcript of  
Augustin Martinez, III, dated September 28, 2017  
Part 1 of 2**

\* Designations made pursuant to the marking and filing procedure the Board has previously approved, TTABVUE Nos. 165, 157, 138, 137, 135 and 132.



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# Transcript of Augustin Martinez, III

**Date:** September 28, 2017

**Case:** Empresa Cubana Del Tabaco -v- General Cigar Co., Inc.

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EMPRESA CUBANA DEL TABACO, :

d.b.a. CUBATABACO, :

Petitioner, :

v. : Cancellation No. 92025859

GENERAL CIGAR CO., INC. and :

CULBRO CORP., :

Respondents. :

- - - - - x

Deposition of AUGUSTIN MARTINEZ, III

Richmond, Virginia

Thursday, September 28, 2017

9:02 a.m.



1 Job No.: 161806

2 Pages: 1 - 370

3 Reported By: Leslie D. Etheredge, RMR, CCR

4

5

6 Deposition of AUGUSTIN MARTINEZ, III, held at  
7 the offices of:

8

9 ECKERT SEAMANS CHERIN & MELLOTT

10 919 East Main Street, Suite 1300

11 Richmond, Virginia 23219

12 804.788.7740

13

14

15

16

17 Pursuant to Notice, before Leslie D.

18 Etheredge, Registered Merit Reporter, Certified

19 Court Reporter and Notary Public in and for the

20 Commonwealth of Virginia.

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A P P E A R A N C E S

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C O N T E N T S

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1 P R O C E E D I N G S

2 Whereupon,

3 AUGUSTIN MARTINEZ, III,

4 being first duly sworn to testify to the truth, the  
5 whole truth, and nothing but the truth, was examined  
6 and testified as follows:

7 DIRECT EXAMINATION BY COUNSEL FOR THE PETITIONER  
8 BY MR. FRANK:

9 Q. Good morning.

10 A. Good morning.

11 Q. My name is Lindsey Frank, I am counsel  
12 with Rabinowitz, Boudin, Standard, Krinsky &  
13 Lieberman. We are counsel to petitioner Empresa  
14 Cubana Del Tabacco d.b.a. Cubatabaco in this case.

15 Are you being represented by counsel  
16 here today?

17 A. I am.

18 MR. FRANK: Counsel, can you please  
19 identify yourself for the record.

20 MR. DEUTSCH: Yes. I am Andrew Deutsch  
21 from the firm of DLA Piper LLP, representing  
22 General Cigar Company and also representing the

1 witness at this deposition.

2 Q. I will be asking you a series of  
3 questions today. The court reporter here will  
4 transcribe my questions and your answers.

5 If any of my questions are unclear,  
6 please let me know, and I will try to clarify  
7 them. The court reporter needs to record all of  
8 your answers, so please speak your answers, try  
9 not to nod or use hand gestures.

10 Is there any reason you cannot testify  
11 truthfully here today?

12 A. No.

13 Q. Are you currently taking any medication  
14 which would affect your ability to testify  
15 truthfully and fully today?

16 A. No.

17 Q. Are you currently subject to any medical  
18 condition that would affect your ability to  
19 testify fully and truthfully today?

20 A. No.

21 Q. Can you please describe the schools you  
22 attended, the years you graduated, starting with

1 secondary education.

2 A. Sure. I graduated from Rochester Adams  
3 High School in 1988, it's in Rochester Hills,  
4 Michigan. I then attended the University of  
5 Michigan in Ann Arbor and graduated in 1992. I  
6 then attended the University of Texas at Austin  
7 and graduated in 1997.

8 Q. And for your -- Did you attain a  
9 graduate degree from the University of Michigan in  
10 1992?

11 A. That was an undergraduate degree.

12 Q. And what was the degree?

13 A. That was in -- oh, not '97.

14 Q. '92.

15 A. Michigan. '92 was an undergrad, a  
16 bachelor's.

17 Q. Bachelor's of arts?

18 A. Arts, correct.

19 Q. Did you have any specific focus in your  
20 studies at the University of Michigan?

21 A. Psychology.

22 Q. Did you take any marketing courses while

1 you were at the University of Michigan?

2 A. No.

3 Q. And the University -- your time at the  
4 University of Texas, you said you graduated in  
5 1997. What degree did you attain from the  
6 University of Texas?

7 A. A master's in business administration.

8 Q. Was there a focus during your studies at  
9 the University of Texas?

10 A. Yes.

11 Q. What was that focus?

12 A. Marketing.

13 Q. Did you attain any honors at either the  
14 University of Michigan or the University of Texas?

15 A. No.

16 Q. And did you take courses in marketing at  
17 the University of Texas?

18 A. Yes.

19 Q. Approximately how many?

20 A. Say 12.

21 Q. Other than your degrees from the  
22 University of Michigan and University of Texas,



1 did you attend any other graduate level schools?

2 A. No.

3 Q. Did you -- Have you received any  
4 marketing training since graduating from the  
5 University of Texas?

6 A. No.

7 Q. Since completing your education, what  
8 employments have you held, start with the first  
9 and continue to your current employment, please.

10 A. When you say first, first out of which  
11 education?

12 Q. First out of Michigan.

13 A. First out of Michigan, my first job was  
14 Subway, and I worked at Subway.

15 Q. What was your position at Subway?

16 A. I was a general manager.

17 Q. What years did you work at Subway?

18 A. That was from -- in 1992 through '93.

19 Q. After Subway, was there an employment?

20 A. Yes, it was called Comshare.

21 Q. What position did you hold at Comshare?

22 A. I was a marketing assistant.

1 Q. What years did you work at Comshare?

2 A. From 1993 to 1995.

3 Q. After Comshare, what did you do?

4 A. I went to graduate school.

5 Q. After you graduated from the University  
6 of Texas, did you have any employment?

7 A. Yes. I went to work for Kraft Foods  
8 North America.

9 Q. When did that begin?

10 A. That was in 1997.

11 Q. What was your first position at Kraft  
12 Foods?

13 A. Assistant Brand Manager.

14 Q. What were your responsibilities as  
15 Assistant Brand Manager at Kraft Foods?

16 A. I was responsible at the time for new  
17 products for the Lunchables brand.

18 Q. Anything else?

19 A. I -- I -- I got promoted, but I think  
20 then I worked on our lean meats category, and that  
21 was both as an Assistant Brand Manager and then  
22 subsequently Associate Brand Manager.

1 Q. When did you become Associate Brand  
2 Manager?

3 A. Approximately 1997 -- No. Excuse me.  
4 '98.

5 Q. Were your responsibilities as an  
6 Associate Brand Manager different than your  
7 responsibilities -- the responsibilities you just  
8 identified as an Assistant Brand Manager?

9 A. Essentially, the same, just larger  
10 business.

11 Q. Did you have people working under you as  
12 an Associate Brand Manager at Kraft Foods?

13 A. No.

14 Q. After you were an Associate Brand  
15 Manager at Kraft Foods, what was the next position  
16 you held?

17 A. I was a Brand Manager.

18 Q. At Kraft Foods?

19 A. Yes.

20 Q. When did that begin?

21 A. In 1999.

22 Q. What were your responsibilities as Brand

1 Manager?

2 A. Oscar Mayer brand equity.

3 Q. Did anyone report to you as a Brand

4 Manager at Kraft Foods?

5 A. Yes.

6 Q. Approximately how many people?

7 A. I had four direct reports.

8 Q. And as an Assistant Brand Manager,

9 Associate Brand Manager and Brand Manager, did you

10 engage in marketing in those positions?

11 A. Yes.

12 Q. What percentage of your time was

13 dedicated to marketing in those positions, each

14 one of those positions?

15 A. Probably 60 percent.

16 Q. In each one?

17 A. Yes.

18 Q. After you were Brand Manager at Kraft

19 Foods, what was the next position you held?

20 A. I went to work for Abbott Laboratories.

21 Q. When did that begin?

22 A. That was in 2003.

1 Q. Was that directly after leaving Kraft  
2 Foods?

3 A. Yes.

4 Q. What position did you first hold at  
5 Abbott Laboratories, did you say?

6 A. Senior Brand Manager.

7 Q. What were your responsibilities as  
8 Senior Brand Manager at Abbott Laboratories?

9 A. The Ensure brand.

10 Q. Did you engage in marketing while you  
11 were a Senior Brand Manager?

12 A. Yes.

13 Q. Approximately how much of your work was  
14 marketing?

15 A. 60.

16 Q. And the other 40 percent, what?

17 A. Was made up of sales as well as  
18 financial and operational responsibilities.

19 Q. Did anyone report to you as a Senior  
20 Brand Manager?

21 A. Yes.

22 Q. Approximately how many people?

1           A.     Three.

2           Q.     What was the next position after Senior  
3 Brand Manager?

4           A.     It was Director.

5           Q.     Of Abbott Laboratories?

6           A.     Of marketing for Ensure.

7           Q.     When did that -- When did you first hold  
8 that position?

9           A.     That was in 2005.

10          Q.     What were your responsibilities of  
11 Director of Marketing for Ensure?

12          A.     Responsibilities for delivering top line  
13 and bottom line sales and margin for the Ensure  
14 brand.

15          Q.     What does top line and bottom line mean?

16          A.     Gross revenue and profitability, which  
17 is the bottom line.

18          Q.     Did you engage in marketing as the  
19 Director of Marketing for Ensure?

20          A.     I did.

21          Q.     Approximately how much -- What  
22 percentage of your time was dedicated to

1 marketing?

2 A. Probably 40 percent.

3 Q. And the other 60 percent?

4 A. It was made up of sales, financial and  
5 operational responsibilities.

6 Q. Did anyone report to you as Director of  
7 Marketing?

8 A. Yes.

9 Q. Approximately how many people?

10 A. Seven.

11 Q. Did those people engage in marketing,  
12 those seven people?

13 A. Yes.

14 Q. All of them?

15 A. Yes.

16 Q. After being Director of Marketing, what  
17 was the next position you held?

18 A. It was the Associate Vice President at  
19 Nationwide Financial.

20 Q. When did that begin?

21 A. That began in 2008.

22 Q. Was there a gap between your position as

1 Director of Marketing and Associate Vice

2 President?

3 A. No.

4 Q. What were your responsibilities as  
5 Associate Vice President at Nationwide Financial?

6 A. Responsibility for marketing Nationwide  
7 Financial life insurance products.

8 Q. Approximately what percentage of your  
9 time was dedicated to marketing in that position?

10 A. Probably 80.

11 Q. Did anyone report to you as Associate  
12 Vice President?

13 A. Yes.

14 Q. Approximately how many people?

15 A. Four.

16 Q. Did they engage in marketing as well?

17 A. Yes.

18 Q. All four of them?

19 A. Yes.

20 Q. What was the next position after  
21 Associate Vice President of Nationwide Financial?

22 A. Then I took the role as Director of



1 Brand Marketing at General Cigar Company.

2 Q. When did that begin?

3 A. November 2012.

4 Q. Was there a gap in between your position  
5 at Nationwide Financial and Director of Brand  
6 Marketing at General Cigar?

7 A. No.

8 Q. What were your responsibilities when you  
9 first began as Director of Brand Marketing at  
10 General Cigar?

11 A. Responsibilities include the managing of  
12 and marketing of all General Cigar brands.

13 Q. Would that include General Cigar's  
14 Cohiba brand cigar?

15 A. Yes.

16 Q. When you say management of all General  
17 Cigar brands, what does that entail, what  
18 responsibilities?

19 A. The responsibilities would include  
20 delivering gross revenue, bottom line  
21 profitability, development of new products, the  
22 marketing of said products, yes.

1           Q.     Marketing, what responsibilities would  
2     that entail?

3           A.     That would include any elements in terms  
4     of communication between ourselves and customers  
5     and ourselves and consumers --

6           THE COURT REPORTER:   Are you saying  
7     ourselves?

8           A.     Ourselves meaning General Cigar Company.

9           Q.     When you say customers, who were General  
10    Cigar's customers?

11          A.     Customers are retailers, which would be  
12    tobacconists, catalog internet companies,  
13    distributors as well as liquor customers.

14          Q.     Do they include convenience stores as  
15    well?

16          A.     Yes.

17          Q.     In your position as Director -- Strike  
18    that.

19                 Did your responsibilities as Director of  
20    Brand Marketing change since you began in  
21    November 2012?

22          A.     Yes.

- 1 Q. When did they change?
- 2 A. They've changed multiple times.
- 3 Q. When was the first time that they
- 4 changed?
- 5 A. June of 2015.
- 6 Q. What was the change?
- 7 A. I was given a responsibility to manage
- 8 our events group.
- 9 Q. That was in addition to the
- 10 responsibilities you previously described?
- 11 A. Yes.
- 12 Q. What does the events group do?
- 13 A. Events group is responsible for planning
- 14 and executing in store and out-of-store events, to
- 15 support our brands.
- 16 Q. Would this include events for the
- 17 General Cigar's Cohiba brand cigar?
- 18 A. Yes.
- 19 Q. Were there any other changes in your
- 20 responsibilities at that time?
- 21 A. Not at that time.
- 22 Q. The next time when your responsibilities

1 changed, when did that occur?

2 A. That would have been October of 2016.

3 Q. What happened at that point?

4 A. We split my responsibilities so I had --  
5 I have responsibility for our Dominican-made cigar  
6 portfolio, and I also have responsibility for  
7 managing the FDA aspects of the business.

8 Q. For the Dominican-made product, General  
9 Cigar's Dominican-made products, were your  
10 responsibilities the same as those you previously  
11 described?

12 A. Yes.

13 Q. Did your responsibilities continue to  
14 include General Cigar's Cohiba brand cigars?

15 A. Yes.

16 Q. All lines of General Cigar's Cohiba  
17 brand cigars?

18 A. Yes.

19 Q. Even those produced not in the Dominican  
20 Republic?

21 A. No. I just have the ones that are  
22 produced in the Dominican.

1 Q. So it would not have included General  
2 Cigar's Cohiba Nicaragua, for example?

3 A. It would include that brand.

4 Q. Would it include any Cohiba line --  
5 would it not -- scratch that.

6 Were your responsibilities after October  
7 of 2006, did they include all of the lines of  
8 General Cigar's Cohiba brand cigars?

9 A. I am sorry. October 2006?

10 Q. Sorry. 2016.

11 A. Can you repeat the question then,  
12 please?

13 Q. After October 2016, your  
14 responsibilities included all of the lines of  
15 General Cigar's Cohiba brand cigars including  
16 those not produced in the Dominican Republic?

17 A. I believe all are produced in the  
18 Dominican Republic.

19 Q. Including the Cohiba Nicaragua?

20 A. Correct.

21 Q. Were there any changes after  
22 October 2016?

1 A. No.

2 Q. When you started as Director of Brand  
3 Marketing for General Cigar in November 2012, did  
4 anyone report to you at that time, anyone within  
5 General Cigar?

6 A. Yes.

7 Q. Who would report to you?

8 A. Names or numbers?

9 Q. Both, please.

10 A. I would have had Ed McKenna, Ed Lahmann,  
11 Megan Jenkins, Kendall Rountree. Who else was on  
12 the team -- David Pace.

13 Q. Can you give their titles after their  
14 names, please.

15 A. Sure. Ed McKenna at -- their current or  
16 at the time?

17 Q. At the time.

18 A. Ed McKenna was a Senior Brand Manager.

19 Q. Ed Lahmann?

20 A. Ed Lahmann was a Brand Manager.

21 Q. Megan Jenkins?

22 A. She is a Design Manager.

1 Q. Kendall Rountree?  
2 A. Was an Associate Brand Manager.  
3 Q. David Pace?  
4 A. Associate Brand Manager.  
5 Q. Anyone else?  
6 A. Not that I can recall.  
7 Q. To whom did you report as Director of  
8 Brand Managing (sic) when you first began?  
9 A. Alan Willner.  
10 Q. What was his position?  
11 A. Vice President of Marketing.  
12 Q. To whom did Mr. Willner report at the  
13 time?  
14 A. Dan Carr.  
15 Q. What is Mr. Carr's position?  
16 A. He was President, formerly President.  
17 Q. I should have said what was Mr. Carr's  
18 position at that time?  
19 A. President.  
20 Q. After November 2012, did any of the  
21 people that reported to you change?  
22 A. Yes.

1 Q. When did that occur?

2 A. I can't recall the dates.

3 Q. But can you -- of the 1, 2, 3, 4, 5  
4 people that reported to you, do you recall who  
5 stopped reporting to you?

6 A. At what point did they stop reporting to  
7 me?

8 Q. Not the dates. Just who.

9 A. Okay. So Ed McKenna no longer reports  
10 to me, Ed Lahmann no longer reports to me, Megan  
11 Jenkins no longer reports to me, David Pace no  
12 longer reports to me, and neither does Kendall.  
13 None of the individuals I listed report to me.

14 Q. Did anyone replace Ed McKenna as Senior  
15 Brand Manager?

16 A. He was promoted.

17 Q. Did anyone replace him as Senior -- in  
18 his --

19 A. No.

20 Q. Ed Lahmann, what happened to  
21 Mr. Lahmann?

22 A. Mr. Lahmann left the company and has



1 since returned.

2 Q. Miss Jenkins?

3 A. She is still with the organization.

4 Q. Did anyone replace her as Design  
5 Manager?

6 A. No.

7 Q. Kendall Rountree?

8 A. He left the company.

9 Q. Was he fired, do you know?

10 A. I'm -- I am not sure what the  
11 circumstances were of his departure.

12 Q. To your knowledge, was he fired?

13 A. I have no knowledge one way or the  
14 other.

15 Q. David Pace?

16 A. He is still with the organization.

17 Q. Did anyone replace him as associate --  
18 as Assistant Brand Manager?

19 A. We have since replaced that role, yes.

20 Q. Who currently holds that role?

21 A. Currently, that would be Andres Maturen.

22 Q. Since November 2012, have you always

1 reported to Alan Willner?

2 A. I had up until November of last year.

3 Q. What happened in November of last year?

4 A. Alan left the organization.

5 Q. To whom do you currently report?

6 A. A gentleman by the name of Jose

7 de Castro.

8 Q. What is his title?

9 A. Vice President of Marketing.

10 Q. Do you know to whom Mr. de Castro

11 reports?

12 A. Yes.

13 Q. To whom?

14 A. Regis Broersma.

15 Q. What is his position?

16 A. He is President of General Cigar.

17 Q. Has your title remained Director of

18 Brand Marketing since November of 2012?

19 A. It changed for a brief time.

20 Q. What period of time?

21 A. From October 2016 to November 2016.

22 Q. What was your title during that period?

1           A.     It was Director of Brand Activation.

2           Q.     What happened after November of 2016?

3           A.     We returned to our old structure after  
4     Mr. Willner departed.

5           Q.     Starting in November of 2012, what have  
6     your responsibilities concerning General Cigar's  
7     Cohiba-related work included?

8           A.     Specifically, my direct responsibilities  
9     or --

10          Q.     Your responsibilities.

11          A.     I would be -- I would be responsible for  
12     delivering annual business plans for the Cohiba  
13     brand.

14          Q.     Anything else?

15          A.     I guess within the delivering of the  
16     business plans would be innovation, development of  
17     innovation for the brand, development of any  
18     advertising or consumer promotions associated with  
19     the brand, development of social or online  
20     marketing, that's in delivering or accountable for  
21     delivering top line sales as well as delivering  
22     bottom line profitability for the brand.

1           Q.    Would it -- You say developed social and  
2   online, social and online materials, is that what  
3   you said?

4           A.    I wouldn't be directly myself  
5   responsible for developing the materials but  
6   identification of consumer target messaging.

7           Q.    And someone who reported to you would  
8   be responsible for developing social or online  
9   marketing?

10          A.    Both reporting to me as well as  
11   agencies.

12          Q.    But were you ultimately responsible for  
13   developing social and online marketing?

14          A.    Yes.

15          Q.    Were you ultimately responsible also for  
16   executing social and online marketing?

17          A.    Moosylvania had the responsibility for  
18   that.

19          Q.    To whom did Moosylvania report for that  
20   responsibility?

21          A.    Alan Willner.

22          Q.    Did Moosylvania report to Mr. Willner

1 for any other aspects of its work?

2 A. Yes.

3 Q. Which aspects?

4 A. They had responsibility for -- I don't  
5 want to say all of our brands but our core brands  
6 within our portfolio.

7 Q. When you say they had responsibility for  
8 your core brands within the portfolio, what  
9 responsibilities did they have?

10 A. Some of those responsibilities could  
11 vary by brand but could include up to development  
12 of print advertising, point of sale materials,  
13 online and digital including website development.

14 Q. For General Cigar's Cohiba brand cigar,  
15 what were its responsibilities?

16 A. They had responsibilities for  
17 development of our -- some print advertising,  
18 point of sale materials, some packaging design  
19 development work, whether or not we ended up using  
20 it, I am not sure, but they did work associated  
21 with that. And social, web -- website redesign.

22 Q. Digital marketing as well?

1           A.    Digital meaning websites, yes.

2           Q.    Any -- But does digital also include  
3 banner ads, for example?

4           A.    Yes.

5           [REDACTED]

6           [REDACTED]

7           [REDACTED]

8           [REDACTED]

9           [REDACTED]

10          [REDACTED]

11          [REDACTED]

12          [REDACTED]

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16          [REDACTED]

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17 [REDACTED]  
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21 [REDACTED]

22 Q. What is an innovation?

1           A.    Innovation would be a new product, at  
2   least is how I am defining it.

3           Q.    Would Mr. Lahmann's responsibilities  
4   have included anything else at that time?

5           A.    It would include delivering the revenue  
6   target set as well as the profitability set by the  
7   organization.

8           Q.    At the time, did General Cigar have a  
9   annual brand plan for its cigars?

10          A.    When -- When I joined the organization  
11   in November, I believe there was one. I did not  
12   see that, but there was one beginning 2013.

13          Q.    Who was responsible for preparing  
14   that -- the information concerning Cohiba for the  
15   annual brand plan?

16          A.    Ed Lahmann would have been responsible  
17   for that.

18          Q.    Would anyone else be responsible for the  
19   annual brand plan at that point?

20          A.    No one else would be responsible. I  
21   would say that I was accountable that it was  
22   completed but Ed was the only individual who was

1 responsible that it got completed.

2 Q. Was Mr. Lahmann in charge of drafting  
3 the text for the information concerning Cohiba for  
4 the annual brand plan starting in 2013?

5 A. Yes.

6 Q. Was he responsible for revising the  
7 text?

8 A. Yes.

9 Q. Was there anyone other than Mr. Lahmann  
10 and Mr. Giannini that reported to you on General  
11 Cigar's Cohiba brand cigar at that time?

12 A. No, sir.

13 Q. And were Mr. Giannini's responsibilities  
14 anything other than being the lead person  
15 responsible for innovations?

16 A. He had no other responsibilities.

17 Q. Okay. Was there a point when -- was --  
18 Strike that.

19 Was there anyone else that reported to  
20 you that had responsibilities for General Cigar's  
21 Cohiba cigars after November 2012?

22 A. Yes. Steve Abbot.

1           Q.    Mr. Abbot has already testified in this  
2           matter and testified that he began his work in  
3           approximately April of 2014. Do you agree?

4           A.    I do.

5           Q.    And was Mr. -- Did Mr. Lahmann's  
6           responsibilities for General Cigar's Cohiba cigars  
7           change in between when you started in  
8           November 2012 and April 2014?

9           A.    No.

10          Q.    What happened -- Strike that. Did  
11          Mr. Giannini's responsibilities change in between  
12          November 2012 and April 2014?

13          A.    No.

14          Q.    Has anyone else reported to you on  
15          General Cigar's Cohiba brand cigar in between  
16          November 2012 and April 2014?

17          A.    No.

18          Q.    To whom do you report concerning General  
19          Cigar's Cohiba brand cigars in between April -- in  
20          between November 2012 and April 2014?

21          A.    Alan Willner.

22          Q.    Did that remain the same for your

1     entire -- Has that remained the same for your  
2     entire employment?

3             A.     Up until November of last year.

4             Q.     When Mr. Willner left?

5             A.     Yes.

6             Q.     Mr. Abbot testified previously that he  
7     was the person at General Cigar principally  
8     responsible for General Cigar's Cohiba cigars in  
9     between April 2014 and September 2016. Do you  
10    agree?

11            MR. DEUTSCH: I just object to the  
12    characterization, and state that the testimony of  
13    the witness will -- of Mr. Abbot will be whatever  
14    is reflected in the transcript; but the witness  
15    can answer.

16            A.     I believe that's accurate.

17            Q.     After Mr. Abbot testified that after  
18    September of 2016, he was -- he was no longer  
19    responsible for working on General Cigar's Cohiba  
20    brand cigar, do you agree with that?

21            A.     Yes, I believe that it is about right.  
22    I -- I think that's the date, September.

1           Q.   And after Mr. Abbot stopped being  
2           principally responsible for General Cigar's Cohiba  
3           cigars, did someone take his place?

4           A.   Yes.

5           Q.   Who was that?

6           A.   Andres Maturen.

7           Q.   What were Mr. Maturen's responsibilities  
8           at that point?

9           A.   He then assumed responsibility for  
10          managing the day-to-day operations of the Cohiba  
11          brand.

12          Q.   Would that include developing tactics  
13          for Cohiba brand cigar?

14          A.   Yes.

15          Q.   Executing those tactics?

16          A.   Yes.

17          Q.   Setting the marketing strategy?

18          A.   Yes.

19          Q.   Would it also include preparing the  
20          information for the annual brand report --  
21          preparing the information concerning Cohiba for  
22          the annual brand report?

1           A.    Yes.

2           Q.    Would he be responsible for revising the  
3 information concerning Cohiba for the annual brand  
4 report?

5           A.    Yes.

6           Q.    In between April 2014 and November 2016,  
7 Mr. Abbot testified that a -- that Mr. Maturen and  
8 a Mr. Davenport reported to him. Do you agree  
9 with that?

10          A.    Yes.

11          Q.    And do you know if Mr. Maturen and  
12 Mr. Davenport's work concerned the Cohiba brand  
13 cigar?

14          A.    Maturen, certainly. Davenport, yes,  
15 yes.

16          Q.    What were Mr. Maturen's responsibilities  
17 during that period?

18          A.    So his responsibilities include the  
19 development of the brand plans and the execution  
20 of those plans and delivering the revenue and  
21 profitability targets.

22          Q.    I am speaking about in between April

1 2014 and November of 2016.

2 A. Oh. He wasn't with the organization.

3 Q. Maturen was not?

4 A. No, not from April -- he joined in two  
5 thousand -- beginning of 2016.

6 Q. Beginning of 2016?

7 A. Yes, I believe so.

8 Q. What were his responsibilities when he  
9 began in the beginning of 2016, concerning General  
10 Cigar's Cohiba cigar?

11 A. He became the Associate Brand Manager  
12 for Cohiba.

13 Q. Mr. -- When did Mr. Davenport first  
14 start working on the Cohiba brand cigar?

15 A. I can't recall when he started with the  
16 organization.

17 Q. Do you remember what year?

18 A. It was either the end of 2015 or the  
19 beginning of 2016.

20 Q. Does Mr. Maturen continue to be  
21 responsible for -- Strike that. Is Mr. Maturen  
22 principally responsible for General Cigar's Cohiba



1 brand cigar?

2 A. Yes, he has responsibilities for the  
3 brand.

4 Q. Is he the principal point person at  
5 General Cigar for its Cohiba brand cigar  
6 currently?

7 A. When you say principal, what do you  
8 mean?

9 Q. Is there a principal point person at  
10 General Cigar for its Cohiba brand cigar?

11 A. Yes.

12 Q. Who is that person?

13 A. That would be Andres.

14 Q. Starting from what time period?

15 A. I can't remember the exact date.

16 Q. But approximately when Mr. Abbot left  
17 that position?

18 A. Correct.

19 Q. You said when you began -- I believe you  
20 said when you began, in November of 2012,  
21 Mr. Lahmann was the person principally responsible  
22 for General Cigar's Cohiba brand cigar; is that

1 correct?

2 A. Yes, sir.

3 Q. Prior to that, do you know who was  
4 principally responsible for General Cigar's Cohiba  
5 brand cigar?

6 A. I -- I don't know.

7 Q. Do you know when Mr. Lahmann first  
8 became the person principally responsible for  
9 General Cigar's Cohiba brand cigar?

10 A. I don't. That was before I joined the  
11 organization.

12 Q. Mr. Abbot testified that General Cigar  
13 has a website Cohiba.com for its Cohiba brand  
14 cigar; is that correct?

15 A. Yes.

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

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17 Q. Mr. Abbot testified that General Cigar  
18 has social media accounts on Twitter, Facebook and  
19 Instagram that are dedicated to General Cigar's  
20 Cohiba brand cigar; is that correct?

21 A. Yes.

22 [REDACTED] [REDACTED]

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5 [REDACTED]  
6 [REDACTED]  
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8 [REDACTED]  
9 [REDACTED]

10 Q. Is anyone at General Cigar responsible  
11 for -- Strike that.

12 Other than the information that General  
13 Cigar posts, is there any other information that  
14 is included on General Cigar's social media  
15 account for its Cohiba cigar?

16 MR. DEUTSCH: Objection. You can  
17 answer.

18 A. There would be user-generated comments  
19 that consumers post that would be a part of that,  
20 that page.

21 [REDACTED]  
22 [REDACTED]

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[REDACTED]

Q. As part of your work at General Cigar, do you conduct market visits?

A. Yes.

Q. How frequently?

A. Once a quarter.

Q. And during which years?

A. That would have been since I started with the organization.

Q. What does -- What do your market visits consist of?

A. I go into the market to do a number of different things, one, to visit retail stores, attend events, and in the instance of our clubs, I will attend, you know, our Club Macanudo in New York City, or we also have a location at the Knickerbocker Hotel at Times Square.

Q. Would you do each of these activities once per quarter or just one of the activities?

A. It would vary. Sometimes it would be multiple, there could be more than one visit, I

1 might go to an event as well as, you know, a  
2 ride-along with a sales representative in the same  
3 quarter.

4 Q. Did you keep notes of your -- of what  
5 occurred during each of those visits?

6 A. I did not.

7 Q. Do you keep notes of what occurred  
8 during any of those visits?

9 A. I have not.

10 Q. Did you draft any written document after  
11 the fact memorializing what occurred during those  
12 visits?

13 A. I did not.

14 Q. As part of your work at General Cigar,  
15 do you meet with retailers?

16 A. Yes.

17 Q. Approximately how frequently?

18 A. Once a quarter.

19 Q. How many retailers would you visit once  
20 per quarter?

21 A. Probably five to eight.

22 Q. During what time period?



1           A.    That would have been since my full  
2   employment here, November of 2012 through present.

3           Q.    Did you keep any notes during your  
4   visits with retailers?

5           A.    I did not.

6           Q.    Did you draft any written document after  
7   the fact memorializing your encounters with those  
8   retailers?

9           A.    I did not.

10          [REDACTED]

11          [REDACTED]

12          [REDACTED]

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14 [REDACTED]

15 Q. Is there anyone in the marketing  
16 department that is in charge of trade marketing?

17 MR. DEUTSCH: Objection. You can  
18 answer.

19 A. Yeah, I believe it would be Bud  
20 Henderson, he is responsible for sales operations.

21 Q. What is trade marketing?

22 A. Trade marketing, as I define it, are

1 promotional programs, allowances, that we use in  
2 the marketplace to incent either consumer or  
3 customer, being the trade customer, purchases.

4 Q. Prior to Mr. Henderson, was there  
5 someone responsible for trade marketing for  
6 General Cigar's Cohiba cigar?

7 A. Not during my tenure.

8 [REDACTED]  
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Q. Do you know if anyone in -- Strike that.

9

Do you personally read any cigar

10

magazines?

11

A. I do.

12

Q. Which ones?

13

A. I read Cigar Snob, Cigar Aficionado,

14

those are the two primary ones.

15

Q. Do you have a subscription?

16

A. I believe they comp us those because we

17

run ads in their publications.

18

Q. Do you review -- Do you regularly review

19

Cigar Aficionado?

20

A. Yes.

21

Q. Cigar Snob?

22

A. Yes.

1 Q. Since when?

2 A. Since November of 2012.

3 Q. For both magazines?

4 A. Cigar Aficionado.

5 Q. And for Cigar Snob?

6 A. Probably since January of 2016.

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

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13 [REDACTED]  
14 [REDACTED]

15 Q. Do you know, as part of Moosylvania's  
16 work, did they provide quarterly reports to  
17 General Cigar?

18 A. They used to.

19 Q. Starting when?

20 A. I can't remember.

21 Q. Did they receive them when you first  
22 began, do you recall?

1 A. No, not when I first started, no.

2 Q. Do you know when they ended?

3 A. Approximately when Mr. Willner departed.

4 Q. Do you recall how these reports were  
5 delivered to General Cigar?

6 A. Typically, in a presentation form and  
7 then subsequently delivered via a deck document.

8 Q. A what?

9 A. Would have the charts that they would  
10 present to us, they would send to us.

11 Q. Send to you via email?

12 A. Typically, yes.

13 MR. DEUTSCH: Deck is D-E-C-K.

14 A. D-E-C-K, yes.

15 Q. The deck is a PowerPoint presentation?

16 A. Yes.

17 Q. And the presentation would occur during  
18 a meeting, physical meeting?

19 A. Yes. Not always. Not every quarter,  
20 but sometimes they would just send a presentation,  
21 but if schedules permitted, we would meet  
22 face-to-face.

1           Q.   Who would be present at the face-to-face  
2 meetings?

3           A.   It varied; but, typically, it would be  
4 Mr. Willner, myself at a minimum, and then the  
5 principal at Moosylvania, which would be Norty  
6 Cohen, and our account director, Michael Harris.

7           Q.   Were any notes taken during those  
8 meetings?

9           A.   I did not take any myself.

10          Q.   Did you memorialize the meeting in any  
11 written document after the fact?

12          A.   I did not.

13          Q.   Was there an opportunity to -- for  
14 General Cigar to ask questions during that  
15 presentation?

16          A.   Yes, there were.

17          Q.   Did you, in fact, ask questions?

18          A.   Yes.

19          Q.   During all of the presentations?

20          A.   I asked a question, I am sure at every  
21 meeting, yes.

22          Q.   And Mr. Willner would ask questions as

1 well?

2 A. Many questions.

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10 Q. In order to be ready to testify today,  
11 did you do anything in particular to learn about  
12 or refresh your memory about General Cigar Cohiba?

13 A. No.

14 Q. Did you meet with counsel prior to  
15 today's deposition?

16 A. Yes.

17 Q. Did you review any documents?

18 A. No.

19 MR. DEUTSCH: I will -- He has answered  
20 already, but I would have placed an objection on  
21 the record.

22 Q. Were you asked by anyone to search your

1 records in response to certain document requests  
2 connected to this litigation?

3 A. I've -- Excuse me. I was asked by  
4 former counsel, Daniel McGee, when the process  
5 started, for discovery, I guess, to pull  
6 documents, and Steve Abbot assisted in that  
7 effort, so yes.

8 Q. Did you, in fact, search for records in  
9 response to that request?

10 A. I personally did not but individuals did  
11 search for those records for me.

12 Q. Did you speak with counsel prior to  
13 searching for the records?

14 A. Other than when Daniel McGee, who at the  
15 time was our in-house counsel, requesting it, I  
16 did not.

17 Q. Do you know from which time period  
18 records were searched?

19 A. I have no idea.

20 Q. Do you know which records were, in fact,  
21 provided?

22 A. No, sir.

1 personal -- on any personal devices such --

2 A. No.

3 Q. -- as a mobile phone or on a personal --

4 MR. DEUTSCH: Let him finish the  
5 question before you answer. Go ahead.

6 Q. -- such as any mobile device or personal  
7 computer, tablet?

8 A. No.

9 Q. Did you receive a litigation hold or  
10 instruction not to delete documents when you first  
11 began your work at General Cigar?

12 A. When I began my work at General Cigar?  
13 I don't recall.

14 Q. Do you recall at any period, subsequent  
15 to when you began, receiving a litigation hold or  
16 instruction not to delete documents related to  
17 this proceeding?

18 A. I don't recall.

19 Q. We have already talked about a brand  
20 plan, correct, that General Cigar has an annual  
21 brand plan for its cigars; is that correct?

22 A. Yes.



1 Q. And how often is this brand plan  
2 updated?

3 A. It varies.

4 Q. Is it once per year?

5 A. It is delivered, the final plan is  
6 delivered once a year, but it is updated and it  
7 goes through multiple versions throughout the  
8 process.

9 Q. But there is one final version at the  
10 end that is approved?

11 A. Yes.

12 Q. When does that occur approximately?

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18 [REDACTED]  
19 [REDACTED]

20 Q. Do you know who would know?

21 A. Regis might know. I just can't recall.

22 Q. Does the annual brand plan include

1 information concerning Cohiba?

2 A. Yes.

3 Q. In every brand plan since you began?

4 A. Yes.

5 Q. Has anyone at General Cigar drafted an  
6 initial draft for the 2018 brand plan?

7 A. Yes.

8 Q. Who prepared that draft?

9 A. Andres Maturen.

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

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3 Q. Anything concerning the Cuban Cohiba  
4 cigar?

5 A. No.

6 Q. Mr. Abbot testified that he prepared  
7 information concerning Cohiba for General Cigar's  
8 2015, 2016, 2017 brand plans. Do you agree with  
9 that?

10 A. Yes.

11 Q. You began work in November of 2012;  
12 correct?

13 A. Yes.

14 Q. Was the 2013 brand plan already approved  
15 by that point?

16 A. Yes.

17 Q. Did you review the 2013 plan?

18 A. I don't remember seeing it, no.

19 Q. Would you have been responsible at that  
20 time for executing the 2013 brand plan?

21 A. Yes.

22 Q. But you don't remember seeing it?



1           A.     I don't remember seeing a plan, no.

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9           Q.     Do you know, was it Mr. Lahmann who  
10           prepared the information concerning Cohiba for  
11           General Cigar's 2014 brand plan?

12          A.     Yes.

13          Q.     Mr. Abbot testified that you reviewed  
14           the information concerning Cohiba for the 2015,  
15           '16, '17 brand plans concerning Cohiba before they  
16           became final; is that correct?

17          A.     Yes.

18          Q.     Mr. Abbot also testified that he had  
19           meetings with you about the information concerning  
20           Cohiba in the 2015 to 2017 brand plans; is that  
21           correct?

22          A.     That would be true, yes.

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18 [REDACTED]  
19 Q. Is Mr. Maturen principally responsible  
20 for making edits of the information concerning  
21 Cohiba that is to be included in the annual brand  
22 plan?

1           A.     Yes, he is.

2           Q.     Prior to that, was it Mr. Abbot?

3           A.     Yes.

4           Q.     Prior to that, was it Mr. Lahmann?

5           A.     Yes.

6           Q.     Does anyone approve the final draft of

7     the information concerning Cohiba before

8     presentation at the annual meeting?

9           A.     Yes.

10          Q.     Who is that?

11          A.     That would be the Vice President of

12     Marketing.

13          Q.     Is that approval process during a

14     meeting?

15          A.     Yes.

16          Q.     Do you attend that meeting?

17          A.     Yes.

18          Q.     Is that true for each year that you've

19     worked at General Cigar?

20          A.     Yes.

21          Q.     During the annual meeting in which the

22     final brand plan is reviewed -- you mentioned

1 certain people previously that attended the  
2 meeting for 2018. Who of those people attended  
3 the meeting in -- for the brand plan for 2017?

4 A. I don't know all of them, but,  
5 obviously, I attended that meeting, Regis Broersma  
6 was a part of that meeting, Craig Reynolds was a  
7 part of that meeting, and Niels Frederiksen was a  
8 part of both meetings, those individuals were part  
9 of both the '17 and '18 plan meetings.

10 Q. And Gene Richter?

11 A. I -- I can't recall. I would say yes,  
12 but I can't recall if he was at the 2017 plan  
13 meeting.

14 Q. Would it be reflected on his calendar,  
15 do you believe?

16 A. I don't know.

17 Q. Mr. Willner, was he?

18 A. Last year, yes.

19 Q. Were there any other heads of  
20 departments at that meeting?

21 A. I can't recall.

22 Q. People from the marketing department?

1 A. Yes.

2 Q. Everyone from the marketing department  
3 would participate?

4 A. I don't want to say everyone, because  
5 some folks aren't, from the marketing group,  
6 aren't invited to the meeting, so no.

7 Q. The senior staff within marketing?

8 A. Not even the senior. Brand Managers  
9 would be in attendance.

10 Q. All Brand Managers?

11 A. Yes.

12 Q. Are there questions -- Is there time  
13 that is dedicated to questions and answers during  
14 the presentation at the annual brand meeting?

15 A. Yes.

16 Q. Are there questions during -- Are there  
17 typically questions during the meeting?

18 A. Yes.

19 Q. Were there questions in 2017?

20 A. I am sure there were, yes.

21 Q. Who approves the annual brand plan?

22 MR. DEUTSCH: Objection. Asked and

1 answered. You can answer again.

2 A. It would be approved by the senior  
3 management group of General Cigar and STG.

4 Q. Is there a formal approval process?

5 A. No.

6 Q. How do you know if a brand plan is  
7 approved?

8 A. It's -- the feedback is positive, looks  
9 good --

10

11

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14 Q. Do you recall, for the 2016 brand plan,  
15 who was present during the --

16 A. I don't recall.

17 Q. Would it be similarly the heads of the  
18 Brand Managers for marketing and the heads of --  
19 the heads of the company?

20 A. It probably would, but they might have  
21 changed, so I am not certain if Regis was there at  
22 the time, because those plans would have been

1 presented in 2015, '16 plans are presented the  
2 year prior, so I can't recall who else was there.  
3 There has been a number of changes in senior  
4 leadership.

5 Q. But the President, the position of  
6 President would always attend?

7 A. Yes.

8 Q. The senior -- the Brand Managers would  
9 attend?

10 A. Yes.

11 Q. The Vice President of Marketing would  
12 attend?

13 A. Yes.

14 Q. The Director of Marketing would attend?

15 A. Yes.

16 Q. The Vice President of Sales would  
17 attend?

18 A. Yes.

19 Q. Is that true for 2015, the 2015 brand  
20 plan?

21 A. Yes.

22 Q. The meeting for the 2014 brand plan?



1           A.    Yes.

2           [REDACTED]

3           [REDACTED]

4           [REDACTED]

5           [REDACTED]

6           [REDACTED]

7           [REDACTED]

8           [REDACTED]

9           [REDACTED]

10          [REDACTED]

11          [REDACTED]

12          [REDACTED]

13          [REDACTED]

14          [REDACTED]

15          [REDACTED]

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17          [REDACTED]

18          [REDACTED]

19          [REDACTED]

20          [REDACTED]

21               Q.    Would that have been reflected in your  
22 calendar?   Would that meeting be reflected in your

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5 [REDACTED]  
6 [REDACTED] [REDACTED]

7 Q. Were -- Did you take any notes during  
8 any of those discussions?

9 A. No.

10 Q. Did you memorialize any -- either of  
11 those discussions in any written document after  
12 the fact?

13 A. No.

14 Q. Do you know if anyone else took any  
15 notes?

16 A. Not that I'm aware of.

17 Q. Do you know if anyone else memorialized  
18 the conversation in any written document after the  
19 fact?

20 A. Not that I'm aware of.

21 Q. How did those conversations relate to  
22 the Cuban Cohiba cigar?

1           A.    As I said, it was in the news, they were  
2 lunch time conversations that just came up.

3           Q.    Would those conversations have been with  
4 Mr. Willner?

5           A.    No.

6           Q.    With Mr. Richter?

7           A.    No.

8           Q.    The President of the company?

9           A.    No.

10          Q.    With Senior Brand Manager in charge of  
11 Cohiba?

12          A.    No.

13          Q.    Does General Cigar sell its Cohiba  
14 cigars outside the United States?

15          A.    No.

16          Q.    Does it distribute its Cohiba cigars  
17 outside the United States?

18          A.    Say that again.

19          Q.    Does General Cigar distribute its Cohiba  
20 cigars outside the United States?

21          A.    No.

22          Q.    Has it in the past?

1 A. Not that I'm aware of.

2 Q. Sold or distributed?

3 A. Not that I'm aware of.

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 Q. Does General Cigar market its Cohiba  
17 cigars outside the United States?

18 A. No.

19 Q. Has it in the past?

20 A. Not that I'm aware of.

21 Q. Has General Cigar hired an outside  
22 company or individual to market its Cohiba cigars



1 outside the United States?

2 A. Not that I'm aware of.

3 Q. In the past?

4 A. Not that I'm aware of.

5 Q. Do you know who would be -- who would  
6 know the answers to any of these questions?

7 A. I can only speak to the time that I have  
8 been here. I don't know what they did before I  
9 joined the organization.

10 Q. Does General Cigar advertise its Cohiba  
11 cigars outside the United States?

12 A. No.

13 Q. Has it in the past?

14 A. Not that I'm aware of.

15 Q. Has it hired an outside company or  
16 individual to advertise its Cohiba cigars outside  
17 the United States?

18 A. No.

19 Q. In the past?

20 A. Not that I'm aware of.

21 MR. DEUTSCH: I would like to take a  
22 break, if now --

1 MR. FRANK: Sure.

2 (Recess from 10:49 a.m. to 11:02 a.m.)

3 MR. FRANK: I am going to introduce  
4 Exhibit 1 here.

5 (Martinez Deposition Exhibit 1 was  
6 marked for identification and is attached to the  
7 transcript.)

8 Q. Can you please review -- This is a  
9 Notice of Deposition. Can you please review the  
10 document.

11 Are you appearing here today pursuant to  
12 this Notice?

13 A. Yes.

14 MR. FRANK: I will mark this as Martinez  
15 Exhibit 2, it is Bates number GENC0004611 to 4628.

16 (Martinez Deposition Exhibit 2 was  
17 marked for identification and is attached to the  
18 transcript.)

19 MR. DEUTSCH: Is this the same as Abbot  
20 2?

21 MR. FRANK: Yes.

22 MR. DEUTSCH: I will just follow along

1 brand plan?

2 A. No.

3 Q. Have you ever seen this document before?

4 A. Yes.

5 Q. Do you know if this document was  
6 presented to anyone else?

7 A. That's what I am not certain.

8 Q. Do you know if it was reviewed by anyone  
9 else, this document?

10 A. Yes.

11 Q. Who was it reviewed by?

12 A. Alan Willner.

13 Q. Do you recall when you reviewed this  
14 document?

15 A. It would have been prior to the  
16 presentation to the management team, but I can't  
17 recall what that date was.

18 Q. Do you have an approximate date?

19 A. September of last year, 2016.

20 Q. Do you recall when -- do you know when  
21 Mr. Willner reviewed this document?

22 A. I can't recall exactly when.

1 Q. Do you know, was there a meeting to  
2 discuss this document?

3 A. I can't recall.

4 Q. Do you know if there would be any  
5 information in your calendar that would identify  
6 whether there was a meeting to discuss this  
7 document?

8 A. This specific document, I don't think  
9 so.

10 [REDACTED]  
11 [REDACTED]  
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13 [REDACTED]  
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Q. Were any notes taken during your -- any of your meetings with Mr. Abbot to discuss this document?

A. I did not take any notes.

Q. Did you produce any written document after the fact memorializing your conversation with Mr. Abbot --

A. I did not.

Q. -- about this document?

Did you review an earlier version of this document?

A. I would expect that I did, yes.

Q. Do you know how many earlier versions of this document there were?

A. No.

Q. Do you know when you reviewed earlier versions of this document?

1 A. I can't recall the dates.

2 Q. Would there be multiple earlier  
3 revisions?

4 A. Yes.

5 Q. Would there be -- Strike that.

6 Would there have been multiple meetings  
7 as well with Mr. Abbot to discuss those earlier  
8 versions?

9 A. During the course of our biweekly  
10 meetings, yes.

11 Q. Do you know if this document was shared  
12 with anyone outside of General Cigar?

13 A. No.

14 Q. No, you don't know or no, it wasn't?

15 A. No, it was not.

16 Q. And how do you know that?

17 A. Because I would have given it myself. I  
18 haven't given it myself.

19 Q. Do you know how you would have received  
20 a copy of this document?

21 A. It would have been on our share drive  
22 for 2017 plans.

1           Q.    Mr. Abbot testified that he drafted this  
2 document; do you agree?

3           A.    Yes.

4           [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9           [REDACTED]  
10          [REDACTED]  
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13          [REDACTED]  
14          [REDACTED]  
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1 Q. Do any other General Cigar brands have  
2 Cuban equities?

3 A. Cigars have a strong association as a  
4 category with Cuba, and that's really the only --  
5 that's -- that's, you know, kind of our belief,  
6 and I think with consumers, that there is a strong  
7 association across all cigars. Now, some of our  
8 other brands do have association, Partagas, Punch,  
9 Hoyo de Monterrey, our other brands that have  
10 Cuban connection.

11 Q. What are those Cuban connections for  
12 Partagas, Punch, Hoyo de Monterrey?

13 A. The origin of those brands were from the  
14 country of Cuba, to the best of my knowledge.

15 Q. Are there any other associations?

16 A. When you say other associations --

17 Q. You said there are associations between  
18 those brands and Cuba. Are there any other Cuban  
19 associations for those brands?

20 A. Individuals, for example, Benji Menendez  
21 is an individual who is Cuban and has a strong  
22 association with the Partagas brand.

1 Q. What is his association?

2 A. He is no longer an employee of the  
3 company, but he would conduct events, meet and  
4 greets with consumers, because his family was  
5 strongly associated with the Partagas brand and  
6 the history behind the brand.

7 Q. What was his relationship to the history  
8 of the brand?

9 A. I believe his -- he was or his father  
10 was a integral part of building, working with the  
11 Cifuentes family in building the Partagas brand.

12 Q. Was that work -- was -- Was the work of  
13 his father work done in Cuba?

14 A. I believe so.

15 Q. Is there anything else that defines the  
16 Cuban association other than the origin of those  
17 brands and individuals such as Benji Mendenez?

18 A. No, not that I'm aware of.

19 (Martinez Deposition Exhibit 3 was  
20 marked for identification and is attached to the  
21 transcript.)

22 MR. DEUTSCH: Is this a new one?

1 MR. FRANK: This is a new one.

2 MR. DEUTSCH: And this is different than  
3 Abbot 3?

4 MR. FRANK: Yes.

5 MR. DEUTSCH: The number is the same on  
6 the bottom.

7 MR. FRANK: Yes. It is different.

8 We have here Martinez Exhibit 3,  
9 GENC0004107, then GENC0004132 to 4149.

10 Q. Can you please identify this document.

11 MR. DEUTSCH: I just want to say for the  
12 record, that these are not -- these are not all  
13 the consecutive serial numbers of documents that  
14 were produced by General Cigar Company to  
15 Cubatabaco, and this is, as far as I know, and I  
16 will ask counsel, a selection that his firm made  
17 of documents within that production to put  
18 together and show as an exhibit to a witness.

19 Is that correct?

20 MR. FRANK: That's correct. This is the  
21 cover page on the section concerning Partagas of  
22 the document that begins at GENC0004107.

1 A. Okay.

2 Q. Ready?

3 A. Yes.

4 Q. Can you please identify this document.

5 A. This appears to be a version of the 2017  
6 Partagas brand plan.

7 Q. If you could direct your attention to  
8 Bates 4141. It says on this Partagas Vision. Our  
9 most preeminent Cuban brand. Utilizing the  
10 extensive heritage of Partagas (including storied  
11 past --

12 THE COURT REPORTER: I am sorry. The  
13 extensive heritage of?

14 MR. FRANK: Scratch that.

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17 Q. What in your opinion do the Cuban  
18 equities for the Cohiba brand include?

19 A. For us, it is luxury.

20 Q. Those are the Cuban equities?

21 A. No, I just think that's what the brand's  
22 equities are, it stands for luxury.

1 Q. Does the Cohiba brand have Cuban  
2 equities?

3 A. Yes.

4 Q. What are those Cuban equities in your  
5 opinion?

6 A. It is a cigar, I can give -- my earlier  
7 statement, I think that there is a general  
8 connection between cigars and Cuba, and the Cohiba  
9 brand would have that Cuban equity connection as  
10 much as any other cigar in the industry.

11 Q. So every cigar in the industry has Cuban  
12 equities just by matter of fact that they're a  
13 cigar?

14 A. I believe the people make  
15 generalizations of the connection between cigars  
16 and Cuba.

17 Q. All cigars?

18 A. In the eyes of consumers, many. Maybe  
19 not all.

20 Q. Do they make those connections for the  
21 CAO brand cigar?

22 A. They do. In fact, our brand ambassador

1 is a gentleman by the name of Rick Rodriguez, who  
2 is Cuban, and there is strong connection to the  
3 fact that he is Cuban and there is connection to  
4 that, so yeah, a lot of that --

5 Q. Where is that documented? Is that  
6 documented any place?

7 MR. DEUTSCH: You can answer that  
8 question.

9 A. That Rick Rodriguez is Cuban?

10 Q. No. That the Cuban -- that there are  
11 Cuban equities to the CAO brand.

12 A. Well, I made the connection via Rick  
13 Rodriguez, who is Cuban.

14 Q. But if there any -- Do you have any  
15 documentation demonstrating that there are Cuban  
16 equities connected --

17 A. Not --

18 Q. -- to the CAO brand?

19 MR. DEUTSCH: Hold on. Please don't  
20 answer until he has finished.

21 MR. MARTINEZ: I apologize.

22 Q. Do you have --

1 MR. DEUTSCH: Objection. You can  
2 answer.

3 [REDACTED]  
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17 Q. Do you know of any evidence supporting  
18 your claim that there are Cuban equities  
19 associated with every cigar?

20 A. Only qualitative conversations with  
21 consumers, retailers.

22 Q. Whose qualitative -- whose

1 conversations?

2 A. One-on-one conversations.

3 Q. Between who?

4 A. Myself, retailers, consumers.

5 Q. When did those conversations --

6 A. It could have --

7 Q. -- occur?

8 A. Sorry. Could have occurred anywhere  
9 between January of 2013 and present day.

10 Q. Did you take any notes about those  
11 conversation --

12 A. I did not.

13 Q. -- about those conversations? Did you  
14 memorialize those conversations in any way?

15 A. I did not.

16 Q. Did you talk to anyone else about those  
17 conversations?

18 A. I did not.

19 Q. Do you know how many conversations there  
20 were?

21 A. I can't recall.

22 Q. Can you recall any facts about any

1 conversation?

2 A. Of course.

3 Q. What -- can you provide those -- provide  
4 any fact about any conversation demonstrating that  
5 there were Cuban equities -- Strike that.

6 Can you provide any fact about a  
7 conversation you had with a consumer indicating  
8 that there are Cuban equities associated with all  
9 cigars?

10 A. Not with all. To clarify, I didn't say  
11 that all cigars, but many cigars consumers find  
12 connections with Cuba.

13 Q. Which cigars particularly have Cuban  
14 equities?

15 A. Partagas, Punch, Hoyo de Monterrey,  
16 Arturo Fuente, several others, Padron. So, like I  
17 said, not all but many.

18 Q. Other than Padron, Arturo Fuente, Hoyo  
19 de Monterrey --

20 THE COURT REPORTER: I need that again.  
21 Sorry.

22 Q. Sorry. Other than Arturo Fuente, Punch,

1 Padron, Hoyo de Monterrey and Partagas, are there  
2 any other brands that have Cuban equities?

3 A. Bolivar -- I am trying to think of other  
4 brands. I can't recall them right now off the top  
5 of my head.

6 Q. Is your statement there that that are  
7 Cuban equities associated with Arturo Fuente, is  
8 there any research that you have seen to support  
9 your claim that there are Cuban equities  
10 associated with Arturo Fuente?

11 A. No.

12 Q. Is there any evidence that you have seen  
13 to support your claim that there are Cuban  
14 equities associated with Arturo Fuente?

15 A. Just in conversation.

16 Q. Other than conversations -- for those  
17 conversations, do you have any evidence -- any  
18 notes of those conversations?

19 A. I do not.

20 Q. Do you have any document written after  
21 the fact memorializing those conversations?

22 A. I do not.



1           Q.    Can you remember any details about any  
2 of those conversations?

3           A.    I cannot.

4           [REDACTED]

5           [REDACTED]

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7           [REDACTED]

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3 Q. Do you know who it is sold by?  
4 A. No.  
5 Q. Do you know if it is a Cuban company  
6 that sells it outside the United States?  
7 A. I don't know.  
8 Q. Is Arturo Fuente a General Cigar brand  
9 cigar?  
10 A. No, it is not.  
11 Q. Padron?  
12 A. No, it is not.  
13 Q. Hoyo de Monterrey?  
14 A. Yes.  
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11 Q. Do you know if it is sold by a Cuban  
12 company?

13 A. I don't know.

14 Q. For the Arturo Fuente brand cigar, do  
15 you know the basis of your statement that the  
16 Arturo Fuente brand cigar has Cuban brand  
17 association is?

18 A. No.

19 Q. Why do you say it has Cuban brand  
20 associations then?

21 A. Again, general connection with consumers  
22 feedback, anecdotal feedback --



1           A.    I did not.

2           Q.    For Padron, what forms the basis of your  
3           statement that the Padron brand cigar has Cuban  
4           associations?

5           A.    The Padron family, there -- you know,  
6           consumers' association, strong associations and  
7           connections with that family in Cuba.

8           Q.    Anything else?

9           A.    No.

10          Q.    Are there any other brands that have  
11          Cuban brand association other than the ones you  
12          have already identified?

13          A.    None that I can think of right now.

14          Q.    In your opinion, do you know what are  
15          the Cuban equity associations -- strike that.

16                What is your understanding of the Cuban,  
17          strongest Cuban equity associations amongst cigar  
18          brands, what, in your opinion, to what does that  
19          refer?

20                MR. DEUTSCH:  Objection.  Asked and  
21          answered.

22                MR. FRANK:  You can answer.

1 MR. DEUTSCH: Yes. I am sorry, you can  
2 answer.

3 Q. Just answer unless he directs you not to  
4 answer.

5 A. Okay. So can you repeat the question  
6 for me again then, please?

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

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THE COURT REPORTER: I need to go off  
the record.

(Discussion held off the record from  
12:05 p.m. to 12:16 p.m.)

MR. FRANK: Mark this as Martinez 4.  
This is Abbot 3.

(Martinez Deposition Exhibit 4 was  
marked for identification and is attached to the  
transcript.)

Q. If you can please review it while I read  
it into the record, this is Bates GENC0004107 and  
then 4150 to 67.

A. Okay.

Q. Please identify this document.

A. It looks like it is a version of the



1 2017 brand plans.

2 Q. Can you tell when this version is from?

3 A. The cover page indicates April of 2016.

4 Q. Are you familiar with this document?  
5 Have you seen this document before?

6 A. Some of these pages don't look familiar.  
7 It looks like it might have been like a working  
8 document that Steve would have been putting  
9 together, so I don't know if I had actually  
10 seen -- I don't think I had seen this version of  
11 it, because there is a lot of FPOs and information  
12 here that doesn't look familiar to me or even  
13 relevant.

14 Q. Mr. Abbot had testified that he met with  
15 you to review this document. Do you have any  
16 reason to believe that was inaccurate?

17 MR. DEUTSCH: Objection. Obviously, the  
18 transcript of the Abbot deposition will show what  
19 the witness actually testified to. The witness  
20 has testified that -- I will permit the witness to  
21 answer whether he met with Mr. Abbot to review  
22 this document.

1           A.    Yes, I can't recall if he and I reviewed  
2    this version of this plan, but, again, as I look  
3    at these, several of these pages don't look  
4    familiar, some don't seem relevant, and a lot of  
5    it is FPO, et cetera, that I don't know why he  
6    would have reviewed this version with me.

7           Q.    You would meet with Mr. Abbot every two  
8    weeks approximately; is that correct?

9           A.    Yeah.

10          Q.    And you would visit -- you would  
11   review -- you would discuss with him his  
12   preparation of the information concerning Cohiba  
13   for the annual brand plan; is that correct?

14          A.    Yes.

15          Q.    Can you tell if this document was shared  
16   with anyone else?

17          A.    I would assume -- In this state, I would  
18   assume no.

19          Q.    Can you turn to Bates number 4151, it is  
20   the third page.

21          A.    Yes.

22          Q.    Mr. Abbot testified that he created this

1 slide; do you agree?

2 A. Yes.

3 Q. Does this slide look familiar to you?

4 A. It does.

5 Q. Do you believe that you've reviewed this  
6 slide previously?

7 A. Yes, I most likely have, yes.

8 Q. Did you have a meeting with Mr. Abbot  
9 concerning the information on the slide?

10 A. I would assume at some point, yes, I  
11 did, whether in this document or in subsequent  
12 documents.

13 Q. Do you recall asking Mr. Abbot any  
14 questions concerning the information contained in  
15 the slide?

16 A. I don't recall asking him any questions  
17 about it, no.

18 Q. Do you know if this slide was included  
19 in the final PowerPoint presentation presented in  
20 the annual meeting?

21 A. I can't recall unless I see the final  
22 dock.

1 Q. Do you recall any conversation with  
2 Mr. Abbot about why or why not?

3 MR. DEUTSCH: Objection.

4 A. Could you clarify why or why not what?

5 Q. Strike the question.

6 Did you suggest that Mr. Abbot eliminate  
7 this slide?

8 A. I do not recall asking him to do that,  
9 no.

10 Q. Do you recall asking Mr. Abbot to  
11 eliminate any information contained in the slide?

12 A. I do not recall asking him to do that,  
13 no.

14 Q. Do you know why Mr. Abbot included this  
15 slide in this presentation?

16 A. I don't know what he was thinking when  
17 he put it together.

18 Q. Did you ever think to yourself at the  
19 time why would Mr. Abbot include this information?

20 A. No, I don't think I ever questioned why  
21 he would have included this information or not.

22 Q. Did you ever -- Did you ever suggest

1 that Mr. Abbot change any of the language included  
2 in this slide?

3 A. I do not recall asking him to do that.

4 Q. Did you ever tell Mr. Abbot that any of  
5 the information contained in this slide is  
6 inaccurate?

7 A. No, I don't remember.

8 Q. Do you recall ever telling Mr. Abbot  
9 that any of the information contained in this  
10 slide is unclear?

11 A. No.

12 Q. Do you recall any questions by anyone  
13 within General Cigar about any of the information  
14 contained in this slide?

15 A. I don't remember any questions now.

16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]

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22 [REDACTED]

1           Q.    You previously stated that you regularly  
2   review Cigar Aficionado, articles in Cigar  
3   Aficionado; is that correct?

4           A.    Yes.

5           Q.    Do you remember ever reading any  
6   articles in Cigar Aficionado about counterfeit  
7   Cuban Cohiba cigars?

8           A.    I am sure I have read articles about it  
9   but no documentation or proof or data to support  
10  an article.

11          Q.    Right. But you remember -- you do  
12  remember reviewing articles in Cigar Aficionado  
13  concerning counterfeit Cuban Cohiba cigars?

14          A.    I don't know specific to Cohiba Cuban  
15  cigars, I don't know for certain if --

16          Q.    Do you remember any articles in Cigar  
17  Aficionado or any other publication concerning  
18  counterfeit General Cigar Cohiba cigars?

19          A.    I don't recall that either.

20          Q.    Do you know if any of -- if there are  
21  any seizures by any government agencies of  
22  counterfeit General Cigar Cohiba cigars?

1           A.     None that I'm aware of.

2           [REDACTED]

3           [REDACTED]

4           [REDACTED]

5           [REDACTED]

6           [REDACTED]

7           [REDACTED]

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16          [REDACTED]

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19          [REDACTED]

20          [REDACTED]

21          [REDACTED]

22          Q.     Do you recall thinking to yourself to



1     what does this statement refer, most commonly  
2     counterfeited, in this slide?

3                 MR. DEUTSCH:  Objection.

4                 A.    I really didn't give it much thought, to  
5     be honest with you.

6                 Q.    It states here under -- Strike that.

7                         Let's go back to -- turn to the next  
8     page, 4152.  Mr. Abbot testified that he created  
9     the image contained on this slide; do you agree?

10                A.    I would assume that he did, yes.

11                [REDACTED]

12                [REDACTED]

13                [REDACTED]

14                [REDACTED]

15                [REDACTED]

16                [REDACTED]

17                [REDACTED]

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14 [REDACTED] [REDACTED]  
15 Q. Okay. You can leave that.  
16 A. Okay.  
17 (Martinez Deposition Exhibit 5 was  
18 marked for identification and is attached to the  
19 transcript.)  
20 MR. FRANK: Martinez 5, GENC0003857  
21 through 75.  
22 Q. Respondent General Cigar has identified

1     you as the author of this document in its  
2     responses to Cubatabaco's Second Set of  
3     Interrogatory Requests. Does this document -- Can  
4     you please review this document, review and  
5     identify this document.

6             A.     Okay.

7             Q.     Can you identify this document, please.

8             A.     You know, I am trying to figure out how  
9     it is different from the previous one I reviewed.  
10    I don't know if it was a different version, but it  
11    looked like there was very similar information. I  
12    was looking to see if there was -- but, again,  
13    kind of my same, my same thoughts as when I first  
14    saw the other one; but this would have been  
15    something Steve put together, I assume.

16            Q.     Do you know why General Cigar would have  
17    identified you as the author of this document?

18            A.     No.

19            Q.     Just looking at Bates number 3858, 59,  
20    60, 61, does it refresh your recollection about  
21    your responses to my prior questions concerning  
22    these slides?

1           A.    No.  Like I said, I hadn't seen these  
2   before, and this would have been a document --  
3   because I wouldn't have created the brand plans  
4   for Cohiba.  I didn't create this.

5           Q.    Do you remember any conversations  
6   concerning this document other than what we have  
7   previously discussed?

8           A.    No.

9           [REDACTED]  
10          [REDACTED]  
11          [REDACTED]  
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13          [REDACTED]   [REDACTED]  
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17          [REDACTED]   [REDACTED]

18          Q.    You can put that one away.

19          A.    Okay.

20                   (Martinez Deposition Exhibit 6 was  
21   marked for identification and is attached to the  
22   transcript.)

1 MR. FRANK: This is Abbot Exhibit 5.

2 Q. Please review.

3 MR. FRANK: This is Bates number  
4 GENC0003699 to 3708.

5 A. Okay.

6 Q. Can you please identify this document.

7 A. This looks like, yet again, another  
8 version of the Cohiba brand plan, two thousand --  
9 I guess it is the 2017 brand plan.

10 Q. Can you tell if this was the final  
11 version of the brand plan?

12 A. I -- I don't -- Again, like -- I think  
13 because this page is on here, I know this was  
14 thinking later in --

15 Q. Can you please identify the picture.

16 A. Yes, I am sorry. Page 3703 would be an  
17 indicator to me that this was a later version.

18 This would not, again, be a final version, because  
19 some of the information in here just isn't what I  
20 can recall was in the final 2017 plan.

21 Q. What was information that you can recall  
22 was not in the final presentation?

1           A.    Now, this feels like this might have  
2    been a later -- would have been a later version  
3    than --

4           [REDACTED]

5           [REDACTED]

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Q. Okay. Let's continue on. For

3

Exhibit 6, do you recall reviewing this document?

4

A. I recall the slides but not necessarily

5

this document in this order.

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13 MR. FRANK: I request that General Cigar  
14 produce the brand essence reports for all of the  
15 General Cigar brands created.

16 MR. DEUTSCH: We will take that under  
17 consideration.

18 MR. FRANK: Do you want to take a break  
19 now? It is just 1:00.

20 MR. DEUTSCH: That's fine.

21 (Recess from 1:00 p.m. to 1:54 p.m.)  
22

1 BY MR. FRANK:

2 Q. In your opinion, is General Cigar's  
3 Cohiba cigar known the world over?

4 MR. DEUTSCH: Objection. You can  
5 answer.

6 A. No.  
7 (Martinez Deposition Exhibit 8 was  
8 marked for identification and is attached to the  
9 transcript.)

10 MR. FRANK: Marked as Martinez 8,  
11 GENC0009254 to 55. This is Abbot 7.

12 Q. Look at the document and identify it,  
13 please.

14 A. This appears to be a Cohiba Nicaragua  
15 creative brief.

16 Q. Who would it have been created by?

17 A. I am trying to think timing wise if this  
18 would have been Steve. Yes, it would have been  
19 Steve. No. It would have been Ed Lahmann.

20 Q. At General Cigar?

21 A. At General Cigar, yes. Ed Lahmann, yes,  
22 in 2014.

1 claim in an ad, clearly, that would have raised a  
2 flag for me.

3 [REDACTED]  
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[REDACTED]

Q. I believe -- have you -- I believe you previously testified that you regularly read Cigar Aficionado; is that correct?

A. Yes.

Q. And other cigar magazines; is that correct?

A. Yes, in particular Cigar Snob, yes.

Q. In any of the articles that you have read, have you read about the fame of the Cuban Cohiba cigar throughout the world?

A. I don't remember those exact words, but, you know, Cuban Cohibas are reviewed in CA on a regular basis.

Q. Any recollection of articles about the recognition of the Cuban Cohiba cigar in the world?

MR. DEUTSCH: Objection.

A. I don't have any off the top of my head,



1 no, sir.

2 Q. I believe you previously testified that  
3 General Cigar has a website dedicated to its  
4 Cohiba cigar?

5 A. We do, yes.

6 Q. Is that Cohiba.com?

7 A. It is either Cohiba.com or  
8 CohibaCigars.com, I can't remember.

9 Q. Do you know if the section of Cohiba --  
10 do you know if the -- if there is any section on  
11 General Cigar's Cohiba website where consumers are  
12 allowed or -- Strike that.

13 Do you know if there is any section on  
14 the General Cigar's Cohiba website that allows  
15 consumers to find online retailers that sell  
16 General Cigar's Cohiba cigar?

17 A. We do have a retail locator, I believe  
18 we have that functionality on the Cohiba site.

19 Q. I believe you testified previously that  
20 Andres Maturen would be the person at General  
21 Cigar principally responsible for the General  
22 Cigar's Cohiba website; is that correct?

1 A. Currently, yes.

2 Q. Prior to that, Steve Abbot?

3 A. Yes.

4 Q. Prior to that, Ed Lahmann?

5 A. Yes.

6 [REDACTED]

7 [REDACTED]

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1 (Discussion held off the record from  
2 2:03 p.m. to 2:16 p.m.)

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18 Q. Who is the head of the National Accounts  
19 Group currently?

20 A. His name is David Pace.

21 Q. When did he begin?

22 A. Prior to me joining the organization.

1 Q. Do you know if they were fired?

2 A. I have no clue. They were -- they were  
3 not with the company when I got there.

4 Q. Do you know if Mr. Chilian was  
5 responsible -- Was the Director of Marketing  
6 responsible for Cohiba cigars?

7 A. I believe he was, because Ed Lahmann  
8 reported in to him, so.

9 Q. At the annual meeting, when the brand  
10 plan, the annual brand plan is presented for  
11 review and approval by the President and others,  
12 as you described previously, who makes the  
13 presentation about the different brands of cigar,  
14 would it be the Senior Brand Manager in charge of  
15 that brand?

16 A. So for the individual brand plans  
17 themselves?

18 Q. Correct.

19 A. So that would be the Brand Manager,  
20 Associate Brand Manager or Senior Brand Manager,  
21 or Director, depending on who is assigned to the  
22 brand.

1 Q. So for 2018, do you know who did the  
2 presentation for the -- for General Cigar's Cohiba  
3 cigar?

4 A. That was Andres Maturen.

5 Q. Do you know for 2017, who did the  
6 presentation?

7 A. I am trying to think. That was probably  
8 Steve.

9 Q. Steve Abbot, you are referring to?

10 A. Yes.

11 Q. Do you know for 2016, was it also  
12 Mr. Abbot?

13 A. I believe so.

14 Q. In 2015?

15 A. That might have been Ed Lahmann.

16 Q. Mr. Abbot had testified that he was the  
17 one responsible for preparing the 2015 annual  
18 brand planning. Could it have been Mr. Abbot?

19 A. I am trying to think of the timing of  
20 when Steve joined and when Ed left and who took  
21 responsibility, because, again, usually '15  
22 planning is done beginning of March, April of '14,

1 each year before.

2 Q. Mr. Abbot testified that he began in  
3 April of 2014.

4 A. Okay. I just wasn't sure when he took  
5 responsibility for the Cohiba brand.

6 Q. Just to clarify, do you know when the  
7 National Accounts Group met or discussed -- met  
8 with -- Strike that.

9 Do you know with the -- Previously, you  
10 had said that the National Accounts Group meets a  
11 few times a year with the internet catalogs that  
12 are -- which they cover; is that correct?

13 A. Yes.

14 Q. Do you know, during those meetings, if  
15 they discuss how any of those retailers are  
16 describing General Cigar's Cohiba brand cigars on  
17 their websites?

18 A. I don't attend those meetings and so I  
19 am not aware of what they cover with them.

20 Q. Does General Cigar have a Twitter  
21 account for its Cohiba cigars?

22 A. Yes.

1 Q. Have you visited that account?

2 A. In the past, but not recently.

3 Q. When in the past?

4 A. A year or more.

5 Q. How frequently do you visit it? Since  
6 you began?

7 A. Not very frequently. I typically look  
8 at other social media sites.

9 Q. Can you guess -- can you estimate?

10 MR. DEUTSCH: Objection.

11 Q. Strike that. Can you estimate,  
12 approximate?

13 MR. DEUTSCH: Still objection.

14 A. Estimate time -- like how many --

15 Q. How many times a year. How many times a  
16 year would you visit General Cigar's Cohiba  
17 Twitter account?

18 A. Twice.

19 Q. For each year since you began?

20 A. Yes.

21 Q. Does General Cigar have an Instagram  
22 account for its Cohiba cigars?

1           A.     Yes.

2           Q.     Have you visited that site?

3           A.     Yes.

4           Q.     How frequently have you visited that

5 site?

6           A.     Probably two or three times a week.

7           Q.     Do you visit on your phone or on the

8 internet?

9           A.     Phone.

10          Q.     Only on the phone?

11          A.     Yes.

12          Q.     Two -- Do you know when the Instagram

13 account was first established, talking about the

14 Cohiba Instagram account?

15          A.     I can't recall when. I don't know when.

16          Q.     Would you say two to three times since

17 you began?

18                 MR. DEUTSCH: Objection.

19          A.     I -- sorry. I thought you were asking

20 when it was created.

21          Q.     Yes. Do you know when it was created?

22          A.     I don't, no.

1 Q. So you said you visited two or three  
2 times per week. Do you know when that frequency  
3 of visits began?

4 A. A year and a half ago.

5 Q. Prior to that?

6 A. Prior to that, I wasn't on social media,  
7 I avoided social media.

8 Q. And does General Cigar have a Facebook  
9 account for its Cohiba cigar?

10 A. Yes.

11 Q. How frequently do you visit that  
12 account?

13 A. Maybe once a week.

14 Q. In the past, was it once a week?

15 A. For about the last 18 months.

16 Q. Do you know what a hashtag is?

17 A. Yes.

18 Q. What is it?

19 A. It's basically -- again, I am not very  
20 savvy on social media, but it is basically a link  
21 or a recognition of something else, so hashtag I  
22 love depositions or something like that, you know,

1           A.    I don't think so.

2           Q.    Do you know of anyone else at General  
3   Cigar or at General Cigar's request has done that  
4   search?

5           A.    Not that I'm aware of.

6           Q.    Do you know when -- Do you know who  
7   first created General Cigar's Twitter account?

8           A.    I would assume it was Moosylvania.

9           Q.    Do you know when that was?

10          A.    I don't.

11          Q.    Do you know if it was prior to your  
12   joining General Cigar?

13          A.    I don't recall.

14          Q.    Do you know -- have you -- Are you aware  
15   that -- Strike that. Are users -- Strike that.

16                Are consumers able to make comments or  
17   posts on to General Cigar's Twitter account?

18          A.    I believe they are, yes.

19          Q.    Are consumers able to make comments or  
20   posts on to General Cigar's Facebook account?

21          A.    I believe they are, yes.

22          Q.    Do you know if users -- Strike that.



1           Are consumers able to make comments or  
2 posts on to General Cigar's Cohiba Instagram  
3 account?

4           A.    I believe they are, yes.

5           Q.    Just to be clear, and for Twitter and  
6 Facebook, the questions I just asked you, I was  
7 referring to General Cigar's Cohiba Twitter,  
8 Facebook and Instagram accounts.

9           A.    That's how I understood it, yes.

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10 [REDACTED]

11 Q. Do you know when that was?

12 A. I don't.

13 Q. Do you know who first developed General  
14 Cigar's Facebook account for Cohiba?

15 A. Again, I don't know for certain, but I  
16 would assume it was Moosylvania.

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18 [REDACTED]  
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21 [REDACTED]  
22 [REDACTED] [REDACTED]

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Q. When you visited Instagram two or three times a week over the past year and a half, would you review user-generated content, comments and posts by users?

A. Sometimes some comments, but primarily it focused on the content that we are creating and posting.

Q. You say primarily, but as a secondary --

A. Secondary --

Q. As a secondary, you would also look at user-generated content?

A. Comments more than the content.

Q. Comments more than posts?

A. I would -- Less so, yes. Yes. More comments than posts.

Q. Why is that?

A. Because I want to get a better understanding of their reaction to the material

1 that we are posting up there and what the  
2 conversation is.

3 Q. And you said over the last year and a  
4 half, you visited General Cigar's Cohiba Facebook  
5 account once per week approximately?

6 A. Uh-huh.

7 Q. Would you look at user-generated content  
8 on that account?

9 A. Occasionally, not frequently, not as  
10 frequent that -- like, as I said before, to  
11 make -- to look at the content we are generating.

12 (Martinez Deposition Exhibit 9 was  
13 marked for identification and is attached to the  
14 transcript.)

15 MR. FRANK: We are at 9. This was Abbot  
16 13. I will be directing your attention only to  
17 one of these pages.

18 MR. MARTINEZ: Okay.

19 Q. We are marking as Martinez 9 GENC  
20 0018617 and the various pages until, with some  
21 missing ranges, until GENC0018790. I will be  
22 directing your attention just to page 1862 -- let

1 me see -- 18640.

2 A. What They're Saying?

3 Q. Please just identify the document.

4 A. Oh. This is the GCC Moose Q2 recap from  
5 August of 2015.

6 Q. So this would have been one of the  
7 quarterly reports that you referred to previously?

8 A. Yes, that's what it looked like, I  
9 haven't gone through all the pages; but yes, this  
10 looks familiar.

11 Q. This would have been one of the  
12 quarterly reports sent to you and Mr. Willner?

13 A. Yes. But as you indicated, there would  
14 have been more analytics, more pages and  
15 information in here, yes.

16 Q. In order to save the trees, we didn't  
17 print out everything.

18 A. Okay.

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]



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MR. FRANK: Okay. We can put that one  
away.

Mark this as 10, Martinez 10, please.

This is Harris Exhibit 4, counsel.

MR. DEUTSCH: Harris.

(Martinez Deposition Exhibit 10 was  
marked for identification and is attached to the  
transcript.)

MR. FRANK: This is a document Bates  
GENC0018813 to --

MR. DEUTSCH: This is Martinez 10?

MR. FRANK: Martinez 10. -- to

GENC0018831.

Q. I will be directing your attention to  
just one page. If you can turn to 18 -- Can you  
please first identify this document for the  
record.

1           A.    Yes.  This is GCC Moose Q2 and Q3 recap  
2   presented by Moosylvania.

3           Q.    Would this have been one of the  
4   quarterly reports you referred to earlier?

5           A.    Yes, I would assume so, yes, just not  
6   sure of what year or quarters.

7           Q.    You may be able to tell by 18815.  Well,  
8   turn your attention to 18830.

9                   Now, this would have been at one of the  
10   quarterly reports that was given by Moosylvania to  
11   you and to Mr. Willner; is that correct?  Where it  
12   says the Vice President of Marketing.

13          A.    It might have, or they might have  
14   emailed it to us, if we were unable to attend.

15          Q.    I direct your attention to the third  
16   bullet point.  Can you read that title on the  
17   third bullet point, please.

18                   [REDACTED]

19                   [REDACTED]

20                   [REDACTED]

21           Q.    Do you know what UGC stands for?

22           A.    I assume that that's an acronym for

1 user-generated content.

2 Q. Have you seen this document before?

3 A. I am trying to recall. Again, I am not  
4 sure of the year, but it doesn't look familiar to  
5 me. It might have been sent to me, but I don't  
6 remember reviewing this particular document, no.

7 Q. But you would be -- Were there any  
8 quarterly reports that you were not sent?

9 A. Like I said, I might have been sent this  
10 document, I might not have read it.

11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED] [REDACTED]  
5 [REDACTED] [REDACTED]  
6 [REDACTED]  
7 [REDACTED] [REDACTED]  
8 [REDACTED] [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED] [REDACTED]  
12 [REDACTED] [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED] [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED] [REDACTED]  
21 [REDACTED]  
22 [REDACTED]

1 [REDACTED]  
2 [REDACTED]  
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4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
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19 [REDACTED]  
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22 [REDACTED]

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6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
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15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
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19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]



1 [REDACTED]  
2 [REDACTED]  
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4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]

1 [REDACTED]  
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3 [REDACTED]  
4 [REDACTED] [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED] [REDACTED]  
9 [REDACTED]  
10 [REDACTED] [REDACTED]  
11 [REDACTED] [REDACTED]  
12 [REDACTED] [REDACTED]  
13 [REDACTED] [REDACTED]  
14 [REDACTED]  
15 [REDACTED] [REDACTED]

16 Q. Do you know if the posts that General  
17 Cigar made to its social media accounts for  
18 Cohiba, if any of those posts included the hashtag  
19 Cohiba?

20 A. I can't recall.

21 Q. Do you know if any of the posts that  
22 Moosylvania made to General Cigar's social media

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 Q. Before the current website, was there a  
7 website for General Cigar's Cohiba --

8 A. There was.

9 Q. -- cigar? And do you know who developed  
10 that website?

11 A. I don't.

12 Q. Do you know if that predated your  
13 employment at General Cigar?

14 A. It did.

15 Q. It did? Do you know, when you arrived,  
16 if there was a website available to the public for  
17 General Cigar's Cohiba cigar?

18 A. When I arrived, yes, there was.

19 Q. Who was responsible for -- Strike that.

20 I believe you said that current -- there  
21 is a current version of General Cigar -- of the  
22 website for General Cigar's Cohiba cigar; is that

1 correct?

2 A. Yes.

3 Q. When did that current version go public?

4 A. I'm trying to think of the timing based  
5 on the products that were incorporated, the  
6 Comador, the Nicaragua, so it was in that time  
7 frame, I don't know the exact dates.

8 Q. Do you know approximately what year?

9 A. 2014, '15, '14.

10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]

1 [REDACTED]  
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3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]

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3 [REDACTED] [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED] [REDACTED]  
14 [REDACTED] [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED] [REDACTED]  
21 [REDACTED] [REDACTED]  
22 [REDACTED]

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 Q. Was there ever a website dedicated to  
12 the Cohiba Comador cigar?  
13 A. Yes.  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]

1 Q. Do you know if there was ever any  
2 disclaimer on the Cohiba Comador website  
3 indicating that the General Cigar Cohiba cigar was  
4 not associated with the Cuban Cohiba cigar?

5 A. I can't recall.

6 Q. Do you know if that website is still  
7 available to the public?

8 A. It should be shut down. We have  
9 discontinued that product for a couple years now.

10 Q. Do you know for what period of time that  
11 website was available to the public, approximately?

12 A. It was November of '14 or -- '14 --  
13 November of '14, I believe, through maybe '15, May  
14 of '15. No, it was longer than that. I can't  
15 recall. I apologize. I am -- I'm -- I am not  
16 sure of when the launch dates for the product and  
17 when the termination date of the product was.

18 Q. Was there ever a Facebook page dedicated  
19 to -- strike that.

20 Did General Cigar have a Facebook page  
21 dedicated to the Cohiba Comador?

22 A. I believe we did.



1 Q. Did it have an Instagram account  
2 dedicated to the Cohiba Comador?

3 A. I believe we did.

4 Q. Did it have a Twitter account dedicated  
5 to the Cohiba Comador?

6 A. I believe we did.

7 Q. Was General Cigar the owner of those  
8 accounts?

9 A. Yes.

10 Q. Do you know if any of those accounts  
11 contained a disclaimer indicating that General  
12 Cigar's Cohiba cigar was not associated with the  
13 Cuban Cohiba cigar?

14 A. I don't recall.

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]

6 Q. Do you know if there is any disclaimer  
7 on General Cigar's Facebook page indicating that  
8 Cohiba is not associated with the -- strike that.

9 Do you know if there is any disclaimer  
10 on General Cigar's Cohiba Facebook page indicating  
11 that General Cigar's Cohiba cigar is not  
12 associated with the Cuban Cohiba cigar?

13 A. I can't recall if there is one or not.

14 (Martinez Deposition Exhibit 12 was  
15 marked for identification and is attached to the  
16 transcript.)

17 MR. FRANK: This was Abbot 16. We will  
18 mark this as Martinez Exhibit 12. This is Abbot  
19 Exhibit 8.

20 MR. DEUTSCH: 8.

21 MR. FRANK: And also Harris Exhibit 8.

22 MR. DEUTSCH: This is Abbot 16.

1 MR. FRANK: I am sorry. You are right.  
2 Abbot 16, correct. This was Harris 8. This is  
3 Bates CT0033025 to 33041.

4 Q. Please review and identify this  
5 document. Let me know when you are done. I will  
6 be directing your attention to the last page.

7 A. Sure.

8 Q. Take your time.

9 A. Okay.

10 Q. Can you please identify this document?

11 A. This appears to be from the Cohiba  
12 Facebook page and a number of pages kind of  
13 articulating the history of the brand.

14 Q. Turn your attention to the last page, we  
15 are looking at CT0033041. Do you see in the  
16 left-hand column, the paragraph that begins note.  
17 Do you mind reading that into the record?

18 A. Note Cohiba cigars are made in the  
19 Dominican Republic. Never associated with the  
20 Cuban cigar sold under the same name outside the  
21 U.S. Cohiba cigars are not made from Cuban-grown  
22 tobaccos.

1 General Cigar's social media accounts for Cohiba  
2 indicating that there is no -- that its general --  
3 Strike that.

4 Do you know if there is any disclaimer  
5 on General Cigar's social media accounts for  
6 Cohiba indicating that General Cigar's Cohiba  
7 cigar is not associated with the Cuban Cohiba  
8 cigar?

9 A. I don't know.

10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]

16 [REDACTED]

17 Q. Do you know if there is any statement on  
18 General Cigar's cigar boxes indicating that its  
19 Cohiba cigars are not associated with the Cuban  
20 Cohiba cigar?

21 A. No.

22 Q. No, there aren't or no, you don't know?

1           A.    There is no -- to directly answer your  
2           question, no, there is nothing that distinguishes  
3           or says specifically that it is distinct from  
4           Cuban, but it is stamped that it is manufactured  
5           in the Dominican Republic.

6           Q.    Is there any statement on any materials  
7           that accompany General Cigar's Cohiba cigar boxes  
8           indicating that they are not associated with the  
9           Cohiba -- with the Cuban Cohiba cigar?

10          A.    Outside of the indication that it is  
11          stamped that it is manufactured in the Dominican  
12          Republic and in some cases that's actually a  
13          component of the band on the cigar, that it is  
14          Dominican.

15          Q.    Other than that, no?

16          A.    No, not that I'm aware of.

17          Q.    On how many of the different cigar bands  
18          is the indication that Dominican Republic  
19          identified on General Cigar's Cohiba band cigars?

20          A.    I don't know for certain, but I know,  
21          for example, one, Puro Dominicana, it is pure  
22          Dominican, that item does have it.

1 Q. Is it on the Cohiba Blue?

2 A. I do not believe so.

3 Q. Is it on the Cohiba Luxury Selection?

4 A. I do not believe so.

5 Q. Is it on the Cohiba Black?

6 A. I do not believe so.

7 Q. Is it on Cohiba Macassar?

8 A. Macassar, no, I do not believe so.

9 Q. Can you identify any other cigar line of

10 Cohiba that includes Dominican Republic on the

11 band?

12 A. Puro Dominicana was the one that I was

13 thinking of.

14 Q. But there is no others that you can

15 recall?

16 A. No, sir.

17 Q. Is there any statement on any

18 advertisement for General Cigar's Cohiba cigar

19 indicating that its Cohiba cigars are not

20 associated with the Cuban Cohiba cigar?

21 A. Not that I'm aware of.

22 Q. Are General Cigar's Cohiba cigars sold

1 at retail stores such as tobacco stores, liquor  
2 stores, convenience stores?

3 A. Yes.

4 Q. Are there any displays that accompany  
5 the sale of General Cigar's Cohiba cigars at those  
6 locations?

7 A. At some, yes.

8 Q. Is there any statement on any of those  
9 displays indicating that General Cigar's Cohiba  
10 cigars are not associated with the Cuban Cohiba  
11 cigar?

12 A. Not that I'm aware of.

13 Q. Do you know what a Facebook page name  
14 is?

15 A. No. A -- I don't know if there is a --

16 Q. Do you know if there is ever a point at  
17 which General Cigar -- strike that.

18 Does General Cigar's Cohiba Facebook  
19 page -- strike that.

20 Does General Cigar's Cohiba Facebook  
21 page have a page name, to your knowledge?

22 A. I -- Cohiba cigars, is that what you are

1 saying?

2 MR. DEUTSCH: Do you understand the  
3 question?

4 A. I don't understand the question. Yes, I  
5 am sorry.

6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]

11 MR. FRANK: Mark this as Martinez  
12 Exhibit 12, document Bates MS00144 --

13 MR. DEUTSCH: 13, I think.

14 MR. FRANK: Yes. I am sorry. 13,  
15 correct. Bates MS0014488 to 89.

16 (Martinez Deposition Exhibit 13 was  
17 marked for identification and is attached to the  
18 transcript.)

19 Q. Please review the document.

20 MR. DEUTSCH: Was this also Harris 11?

21 MR. FRANK: This was Harris 11, yes.

22 I am also going to mark as Martinez 14,



1 Harris Exhibit 10, Bates number MS0007292 to 93.  
2 (Martinez Deposition Exhibit 14 was  
3 marked for identification and is attached to the  
4 transcript.)

5 Q. You can -- Are you looking at that as  
6 well? You can look at both of them.

7 A. Yes.

8 MR. DEUTSCH: This was Harris 10?

9 MR. FRANK: This was Harris 10, correct.

10 Q. Can you please identify these documents?

11 A. These appear to be communications from  
12 Moosylvania in regards to Cohiba Facebook name  
13 options.

14 Q. Were you a recipient of any of these  
15 documents, either of these documents?

16 A. I don't remember seeing it, but I see  
17 that I was copied on this back in March of 2013.

18 Q. Were you copied or was the email  
19 directed to you?

20 A. It was directed to Ed Lahmann, myself  
21 and Victoria McKee.

22 Q. Does this refresh your recollection

1           A.    I don't know. This was briefly --  
2           shortly after I joined the organization, so I  
3           was -- I am not sure what was consumer-facing  
4           prior to my coming or this not coming off, I don't  
5           recall.

6           Q.    Do you recall any discussions within  
7           General Cigar about changing the  
8           consumer-facing -- strike that.

9                               [REDACTED]  
10                              [REDACTED]  
11                              [REDACTED]  
12                    [REDACTED] [REDACTED]  
13                    [REDACTED] [REDACTED]  
14                    [REDACTED] [REDACTED]  
15                    [REDACTED]  
16                    [REDACTED]  
17                    [REDACTED]  
18                    [REDACTED] [REDACTED]  
19                    [REDACTED]  
20                    [REDACTED] [REDACTED]  
21                    [REDACTED]  
22           January 2013.

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]

14 Q. Is the Red Dot explicitly referenced in  
15 the redesigned website?

16 A. I don't believe it is, but the Red Dot  
17 is present without being said.

18 MR. DEUTSCH: Can we take a 2-minute  
19 break at a convenient point?

20 MR. FRANK: Of course. Let me just  
21 follow-up with a couple.

22 MR. DEUTSCH: Sure.

1 Q. Were there any memos -- any notes taken  
2 during your conversations with Mr. Willner about  
3 changing the design of the website?

4 A. I can't recall that I did.

5 Q. Any memorandums written after the fact  
6 memorializing your conversations with him about  
7 changing the website?

8 A. Not that I can remember at this point.

9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]

15 Q. To your knowledge, does General Cigar's  
16 Facebook page currently reference the Cohiba Red  
17 Dot in any text?

18 A. I don't know.

19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED].

8 THE COURT REPORTER: I am sorry?

9 A. I don't recall ever having a  
10 conversation about not using the name Cohiba Red  
11 Dot.

12 MR. FRANK: Let's mark this as 15,  
13 Martinez 15, GENC0010426 to 28.

14 (Martinez Deposition Exhibit 15 was  
15 marked for identification and is attached to the  
16 transcript.)

17 Q. Can you please review and identify this  
18 document for the record. Do you mind identifying  
19 the document for the record?

20 A. Yes, sir. This is a Cohiba website  
21 rebrand creative brief.

22 Q. Do you know who the author of this

1 document was?

2 A. This would have been most likely Ed  
3 Lahmann.

4 Q. Does it indicate on the document if  
5 anyone at General Cigar approved this document?

6 A. The individual who would be responsible  
7 for approval would be myself and Victoria McKee.

8 Q. Do you see here in the background, it  
9 appears to have information about General Cigar's  
10 Cohiba website; is that correct?

11 A. Yes, it has about Cohiba.com, yes.

12 Q. Does that information appear accurate to  
13 you, developed in 2010?

14 MR. DEUTSCH: You are just asking about  
15 that one bullet point?

16 MR. FRANK: Yes.

17 A. I wasn't with the organization then so I  
18 assume that this bullet is accurate, if  
19 Mr. Lahmann was the person who drafted it; but I  
20 wouldn't know for certain, I wasn't here.

21 Q. But do you have any -- Do you have any  
22 reason to believe that the information contained



1 Cohiba US?

2 A. I'm not aware of that, no.

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 Q. I am just going to go back to Martinez

20 12.

21 MR. DEUTSCH: That's this one?

22 MR. FRANK: Correct.

1 MR. DEUTSCH: The Facebook page.

2 Q. Do you know, does General Cigar's Cohiba  
3 Facebook page have a section titled milestones?

4 A. I -- I don't know if it does currently.

5 Q. Do you know if it ever did?

6 A. Milestones. Yeah, I think it did.

7 Q. Do you know what those milestones were?

8 A. Not off the top of my head.

9 Q. Not the actual text, but what they were  
10 supposed to signify?

11 A. To provide background on the brand. I  
12 didn't create them, but I would assume that's what  
13 the intention was.

14 Q. To be clear, you are talking about the  
15 background on the General Cigar's Cohiba brands?

16 A. Yes, sir.

17 Q. Do you know when this information was  
18 first added to General Cigar's Cohiba Facebook  
19 page?

20 A. I do not.

21 [REDACTED]

22 [REDACTED]

1

2

3

4

5

6

7

Q. Do you know if anyone did?

8

A. I don't know.

9

Q. Can you turn your attention to -- let's

10

see -- CT0033034. Have you got it?

11

A. Yes, sir.

12

Q. Can you just read the milestone text

13

into the record, please.

14

A. Milestone text. Is that beneath the

15

flag?

16

Q. Correct.

17

A. It says Cohiba goes worldwide. I can't

18

read -- it looks like there is something typed

19

underneath it, and it says Cohiba cigars are

20

introduced worldwide with the exception of the

21

United States. The introduction features three

22

sizes: Panatela, Corona Especial and Lancero.

1 Q. Do you know what this refers to?

2 A. When it says that Cohiba cigars were  
3 introduced worldwide with the exception of the  
4 United States, and it looks as though it was  
5 launched with three different sizes.

6 Q. Does this refer to General Cigar's  
7 Cohiba cigar?

8 A. No, it indicates that it is not  
9 referencing Cohiba US cigars. With the exception  
10 of the United States.

11 Q. Do you know if this text refers -- is  
12 referring to General Cigar's Cohiba cigar?

13 A. I think it is indicating that it  
14 excludes US cigars.

15 Q. But my question is do you know if this  
16 text refers to General Cigar's Cohiba cigars?

17 A. No, it is referring to non-US.

18 Q. And are those the Cuban Cohiba cigars?

19 A. I don't know.

20 Q. Are -- Do you know if there are Cohiba  
21 cigars sold outside the United States?

22 A. There are.

1           Q.    Do you know, are those sold by a Cuban  
2   company?

3           A.    Yes.

4           Q.    Do you know -- Is there a picture  
5   associated with this text?

6           A.    Yes.

7           Q.    Is that picture of General Cigar's  
8   Cohiba cigars?

9           A.    There is two pictures, one is the  
10   buncher it appears, but the cigars to the right  
11   are the US.

12          Q.    And that's General Cigar's Cohiba  
13   cigars?

14          A.    Yes, I think so. Yes, it has got the  
15   red dot, yes.

16          Q.    Do you know, did you review this text --  
17   Strike that.

18                Why don't you go to 33031, please.

19          A.    Yes, sir.

20          Q.    Can you read the text under the flag  
21   into the record, please.

22          A.    It says Cohiba Black arrives, and,

1     again, there is something printed underneath it,  
2     it looks small, and it says the highly-acclaimed  
3     Cohiba Black is introduced. This rich and complex  
4     cigar features a dark maduro wrapper and aged  
5     Dominican Piloto binder.

6           Q.     Is there a comment beneath that entry?

7           A.     Oh, the consumer Dave Pipher, have to  
8     sample those in Cuba in the new year. And it  
9     looks -- I can't see -- I can't read the date when  
10    that was posted.

11          Q.     That appears to be a comment from a  
12    consumer?

13          A.     Yes, Dave Pipher.

14          Q.     Do you know, are Cohiba Black cigars  
15    sold in Cuba?

16          A.     They are not.

17          Q.     Are they distributed in Cuba?

18          A.     They are not.

19          Q.     Do you know if -- Did you conduct any  
20    research to find out where Dave Pipher is from?

21          A.     What -- No. Again, I am not sure -- I  
22    can't read the date. I see 26 July, I can't read

1 the date, but -- I don't know.

2 Q. It is not the best printout in the  
3 world, I agree.

4 A. I am getting old too, I can't see as  
5 well; but no, no research would have been done on  
6 a consumer.

7 Q. Do you know anyone else at General Cigar  
8 who would have done research to find out where  
9 Dave Pipher is from?

10 A. I don't know.

11 Q. Do you know -- Do you know if comments  
12 to General Cigar's Cohiba Facebook page are  
13 available to consumers within the United States?

14 A. Yes, they are.

15 Q. And that would include this comment?

16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED] [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED] [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]

13 Q. We may have gone over this again, but --  
14 in the past, but just to confirm, do you know if  
15 General Cigar is able to remove comments or posts  
16 from its social media accounts dedicated to  
17 Cohiba?

18 A. Yes, we have the ability to be able to  
19 remove comments.

20 Q. And other posts?

21 A. And posts, yes.

22 Q. But, to your knowledge, has General



1 Cigar ever removed any comments or posts by users,  
2 removed them from General Cigar's Cohiba social  
3 media accounts?

4 A. I don't know specifically if we have  
5 done that. I -- Yes, to answer your question, I  
6 don't know.

7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED] [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED] [REDACTED]  
7 [REDACTED]  
8 [REDACTED] [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED] [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED] [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED] [REDACTED].

19 Q. Do you know if some of the  
20 user-generated content on General Cigar's social  
21 media accounts for Cohiba includes users posting  
22 photos of Cuban Cohiba cigars?

1           A.    I don't know. I haven't reviewed all  
2   the posts, so I can't --

3           Q.    Do you know of any -- Excuse me. Sorry.  
4   Were you done?

5           A.    No, I -- Again, I am not aware of any in  
6   particular. Could it have happened? Perhaps, but  
7   I haven't reviewed all the posts to know.

8           Q.    Do you know of any user-generated  
9   content on General Cigar's social media accounts  
10  for Cohiba where users indicate a connection to  
11  Cuba or Fidel Castro for the Cuban brand cigar,  
12  Cohiba cigar?

13          A.    I am aware that there have been  
14  references to non-US Cuban Cohibas, and that's  
15  typically through the quarterly updates that Moose  
16  would provide us in -- you saw it in the documents  
17  before.

18          Q.    Were there others besides the ones that  
19  we reviewed?

20          A.    Not that I can recall, and I never saw  
21  the actual posts, I just -- I knew that it was --  
22  you know, it comes up.

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED] [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED] [REDACTED]  
13 [REDACTED] [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED] [REDACTED]  
17 [REDACTED] [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED] [REDACTED]  
22 [REDACTED] [REDACTED]

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4 [REDACTED]  
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6 [REDACTED]  
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9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
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13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]

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4 [REDACTED]  
5 [REDACTED] [REDACTED]  
6 [REDACTED]  
7 [REDACTED] [REDACTED]  
8 [REDACTED] [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED] [REDACTED]  
14 [REDACTED] [REDACTED]  
15 [REDACTED]  
16 [REDACTED] [REDACTED]  
17 [REDACTED] [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]

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7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED] [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]



1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED] It remains --

10 THE COURT REPORTER: I am sorry. It  
11 remains?

12 A. This here is the disclaimer in this  
13 document.

14 Q. He is referring to --

15 A. I am sorry. Exhibit 12, page 33041.  
16 The disclaimer that is on the Facebook page, it  
17 indicates -- I will call it the third paragraph.  
18 The US version of Cohiba is the only Cohiba brand  
19 that can be purchased legally in the United  
20 States. It remains peerless in defining luxury  
21 premium cigar enjoyment. In addition to the  
22 hallmark brand, Cohiba also features these fine

1 viewing this on a screen.

2 Q. To your knowledge, does this disclaimer  
3 exist on General Cigar's Cohiba Facebook page?

4 A. I am not aware that it has been removed,  
5 so I don't know.

6 Q. Do you know, is there a disclaimer on  
7 any other page or has there ever been a disclaimer  
8 on any other of General Cigar's internet, social  
9 media accounts, websites?

10 A. I believe there used to be on the  
11 website, but I am not certain.

12 Q. Do you recall any discussion about  
13 why -- scratch that.

14 Do you think that the disclaimer remains  
15 on the website today?

16 A. I don't know if it is.

17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]

1                   MR. DEUTSCH: I object to the question,  
2 I apologize for not being so quick. As I  
3 understand, the witness said that the website was  
4 taken down and not that anything was removed from  
5 it, that an under construction page was put up,  
6 and then a new website was subsequently created,  
7 so removing may not be an accurate  
8 characterization of the witness's testimony.

9                   MR. FRANK: Well, the testimony is what  
10 the testimony is.

11                   [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21                   [REDACTED]  
22 [REDACTED]

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED] [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED] [REDACTED]  
10 [REDACTED]  
11 [REDACTED] [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED] [REDACTED]  
15 [REDACTED] [REDACTED]  
16 [REDACTED] [REDACTED]  
17 [REDACTED] [REDACTED]  
18 [REDACTED] [REDACTED]  
19 [REDACTED]  
20 [REDACTED] [REDACTED]  
21 [REDACTED] [REDACTED]  
22 [REDACTED]

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5 [REDACTED]  
6 [REDACTED]  
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11 [REDACTED]  
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13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]

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3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]

12 MR. FRANK: We will mark this as  
13 Martinez 16, which is Harris Exhibit 19, Bates  
14 number MS0008197.

15 (Martinez Deposition Exhibit 16 was  
16 marked for identification and is attached to the  
17 transcript.)

18 Q. Can you please review and identify this  
19 document.

20 A. Yes. Let me just read through it real  
21 quick.

22 Q. I direct you in particular to the fourth

1 A. No.

2 Q. You can put that away.

3 A. Okay.

4 MR. FRANK: Mark this as Martinez 17,  
5 please. Bates number GENC0030277 to 284.

6 (Martinez Deposition Exhibit 17 was  
7 marked for identification and is attached to the  
8 transcript.)

9 Q. Could you please review this. I will  
10 just be directing your attention to 281 but take  
11 your time to review the document.

12 A. Okay.

13 Q. I won't be asking you about the whole  
14 document.

15 A. Okay.

16 Q. Just when you are ready, just please  
17 identify the document.

18 A. Yes. This appears to be a Cohiba:  
19 Positioning, Objectives and Strategies  
20 presentation dated April 24 of 2013.

21 Q. Is this a document that General Cigar  
22 created?

1           A.     It appears that it was, yes.

2           Q.     Are you familiar with this document?

3           A.     This would have been probably something  
4     that was part of the kickoff of the planning  
5     process for 2014, so yes, I probably would have  
6     been present for this presentation.

7           Q.     Would it have been Mr. Lahmann that  
8     would have prepared this information?

9           A.     Yes.

10          Q.     Would you have met with him to discuss  
11     this document?

12          A.     Yes.

13          Q.     Would you have reviewed this document  
14     prior to meeting with him?

15          A.     Prior to the presentation?

16          Q.     Or prior to meeting with him, or would  
17     you have reviewed this document at --

18          A.     Yes.

19          Q.     -- all?

20          A.     Yes.

21          Q.     Can you refer to 30281. It says here on  
22     the last bullet point, we have had the



1     experience -- I am sorry. Starting with the  
2     bullet point. And we are going to -- Scratch  
3     that.

4                     [REDACTED]  
5     [REDACTED]  
6     [REDACTED]  
7     [REDACTED]  
8     [REDACTED]  
9     [REDACTED]  
10    [REDACTED]  
11    [REDACTED]  
12    [REDACTED]  
13    [REDACTED]  
14           [REDACTED]   [REDACTED]  
15           [REDACTED]   [REDACTED]  
16    [REDACTED]  
17           [REDACTED]   [REDACTED]  
18    [REDACTED]

19           Q.     Do you recall any discussion with  
20     Mr. Lahmann about this?

21           A.     I, again, as we discussed earlier, we  
22     wouldn't have discussed his notes, I would have

1 multiple meetings?

2 A. I don't know.

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 Q. Were there multiple conversations as  
15 well in addition to the meetings?

16 A. How would you define the difference  
17 between a conversation and a meeting?

18 Q. A meeting would be a physical  
19 face-to-face meeting and a conversation may be  
20 over the phone.

21 A. I know there were multiple face-to-face  
22 and likely multiple over the phone.

1           Q.    This would be in the period after  
2   November of 2012 going until what period?

3           A.    Again, I am -- I am not sure when we  
4   launched it to finished it, but I would say  
5   probably up until 2015 face-to-face meetings.

6           Q.    Face-to-face and telephone  
7   conversations?

8           A.    Yes.

9           [REDACTED]  
10          [REDACTED]  
11          [REDACTED]   [REDACTED]  
12          [REDACTED]   [REDACTED]  
13          [REDACTED]  
14          [REDACTED]  
15          [REDACTED]   [REDACTED]  
16          [REDACTED]   [REDACTED]  
17          [REDACTED]  
18          [REDACTED]  
19          [REDACTED]   [REDACTED]  
20          [REDACTED]  
21          [REDACTED]   [REDACTED]  
22          [REDACTED]

1 Q. Victoria is Victoria McKee?

2 A. Yes.

3 Q. And Alan is Alan Willner?

4 A. Yes, sir.

5 Q. Do you know if Jay-Z ever traveled to  
6 Cuba?

7 A. From watching it on TV, it was a big  
8 tadoo when he went down, so yes, I was aware that  
9 he went down.

10 Q. How did you first learn about how --  
11 that Jay-Z went down to Cuba?

12 A. On TV.

13 Q. Did you also read news reports?

14 A. I am sure I did at some point in the  
15 news reels and whatnot.

16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]

1 A. Yes.

2 Q. I am going to ask you whether American  
3 consumers draw any association with Cuba with  
4 respect to hand-rolled cigars?

5 MR. FRANK: Objection.

6 A. Can you repeat the question?

7 Q. Yes. In your experience, do American  
8 consumers draw associations with Cuba with respect  
9 to hand-rolled cigars sold in the United States?

10 A. Yes.

11 MR. FRANK: Objection.

12 Q. Why is that?

13 MR. FRANK: Objection.

14 A. It is common in terms of how people talk  
15 about cigars, premium hand-rolled cigars, in terms  
16 of the descriptions and the connections.

17 Q. And what is common?

18 A. References to imagery, names, words that  
19 have connotations in connection to Cuba across  
20 many brands.

21 Q. I want to mark --

22 MR. DEUTSCH: What is our next exhibit?

1 THE COURT REPORTER: 20.

2 MR. DEUTSCH: I actually have two of  
3 these. Mark this as 20.

4 (Martinez Deposition Exhibit 20 was  
5 marked for identification and is attached to the  
6 transcript.)

7 Q. Mr. Martinez, you have now been handed  
8 what is Exhibit 20. I will represent to you that  
9 this is a placemat I picked up at Boychik's Deli  
10 in Glen Allen, Virginia, yesterday while having  
11 breakfast, and I will draw your attention to the  
12 advertising that is shown on this placemat, in  
13 particular the advertising at the top centered.  
14 Do you see that?

15 A. Yes.

16 Q. What is that an advertisement for?

17 A. It appears to be an advertisement for a  
18 retail store that sells hand-rolled cigars and  
19 accessories.

20 Q. What is the name of that store?

21 A. Havana Connections.

22 Q. Are you familiar with the Havana



1      Connections store?

2            A.      Yes.

3            Q.      Is there one or more than one Havana  
4      Connections store?

5            A.      I believe there are five shops.

6            Q.      Where are those stores located?

7            A.      Here in Central Virginia.

8            Q.      Does the Havana Connections chain of  
9      cigar stores sell GCC Cohiba cigars?

10          A.      Yes.

11          Q.      To your knowledge, does the Havana  
12      Connections chain of cigar shops sell any cigars  
13      that are made in Cuba?

14          A.      No.

15          Q.      Do they sell any cigars that are made in  
16      Havana?

17          A.      No.

18                      MR. FRANK:  Objection to both of those.

19          Q.      To your knowledge, do they sell any  
20      cigars -- Withdrawn.

21                      In your work in connection with your  
22      responsibilities at General Cigar, have you become

1 familiar with a number of bricks and mortar  
2 tobacconists in the United States?

3 A. Yes.

4 Q. Are you familiar with the business names  
5 that they use for their businesses?

6 A. Some of them, yes.

7 Q. Have you ever heard of a tobacco store  
8 called Lil' Havana Tobacconist in West Bloomfield  
9 Township, Michigan?

10 A. Yes.

11 Q. Can you tell me what that business is?

12 A. They sell --

13 MR. FRANK: Objection.

14 A. They sell premium hand-rolled cigars.

15 Q. Do they sell the General Cigar Cohiba  
16 cigar?

17 A. It is my understanding they do.

18 Q. To your knowledge, can they sell cigars  
19 that are made in Cuba?

20 MR. FRANK: Objection.

21 A. No, sir.

22 Q. Would it be illegal for them to do so?

1 MR. FRANK: Objection.

2 MR. DEUTSCH: You can answer.

3 A. Yes.

4 Q. To your knowledge, do they sell cigars  
5 that are made in Havana?

6 MR. FRANK: Objection.

7 A. No.

8 Q. Would it be illegal for them to do so?

9 MR. FRANK: Objection.

10 A. Yes.

11 Q. Okay. Are you familiar with the  
12 tobacconist called Havana Cigars located in  
13 Atlanta, Georgia?

14 A. I am.

15 Q. What do you know about that company?

16 A. They sell premium hand-rolled cigars.

17 Q. Do they sell the General Cigar Cohiba  
18 cigar?

19 MR. FRANK: Objection.

20 A. Yes, they do.

21 Q. To your knowledge, do they sell cigars  
22 made in Cuba?

1 MR. FRANK: Objection.

2 A. No, sir.

3 Q. Would it be illegal for them to do so?

4 MR. FRANK: Objection.

5 A. It would be.

6 Q. To your knowledge, do they sell cigars  
7 made in Havana, Cuba?

8 MR. FRANK: Objection.

9 A. No.

10 Q. To your knowledge, would it be illegal  
11 for them to sell cigars made in Havana, Cuba?

12 MR. FRANK: Objection.

13 A. Yes.

14 Q. Are you familiar with the tobacconist  
15 named Sabor Havana located in Doral, Florida?

16 A. Yes, I have been to that shop and I am  
17 familiar with it.

18 Q. Tell me about that shop.

19 A. They sell premium hand-rolled cigars and  
20 accessories.

21 Q. Do they sell the General Cigar Cohiba  
22 cigar?

1           A.    Yes, they do.

2           Q.    To your knowledge, do they sell any  
3           cigars made in Cuba?

4                   MR. FRANK:  Objection.

5           A.    No.

6           Q.    Would it be illegal for them to sell  
7           cigars made in Cuba?

8                   MR. FRANK:  Objection.

9           A.    Yes, I believe it would be.

10          Q.    To your knowledge, do they sell any  
11          cigars made in Havana, Cuba?

12                   MR. FRANK:  Objection.

13          A.    Not that I know of.

14          Q.    Would it be illegal for them to sell  
15          cigars made in Havana, Cuba?

16                   MR. FRANK:  Objection.

17          A.    Yes, it would be.

18          Q.    Are you familiar with a cigar store  
19          called Cuban Stock Cigar Company located in  
20          Bala Cynwyd, Pennsylvania?

21          A.    Yes.

22          Q.    What is that store?

1 A. They sell premium hand-rolled cigars.

2 Q. Do they sell the General Cigar Cohiba  
3 cigar?

4 A. Yes, they do.

5 Q. To your knowledge, do they sell cigars  
6 made in Cuba?

7 MR. FRANK: Objection.

8 A. As far as I know, no.

9 Q. Would it be illegal for them to sell  
10 cigars made in Cuba?

11 MR. FRANK: Objection.

12 A. Yes, it would be.

13 Q. To your knowledge, do they sell cigars  
14 made -- actually, I will stop. I will withdraw  
15 that.

16 Are you familiar with a cigar sold in  
17 the United States market named La Aroma de Cuba?

18 A. Yes.

19 Q. Do you know who makes that?

20 A. I don't know off the top of my head, no.

21 Q. Is that -- Is that sold in the United  
22 States?

1           A.    Yes.

2           MR. FRANK:  Objection.

3           A.    Yes, it is sold in the U.S.

4           Q.    Is that a hand-rolled cigar?

5           A.    Yes, sir.

6           Q.    Is that cigar made in Cuba --

7           MR. FRANK:  Objection.

8           Q.    -- if you know.

9           A.    Not that I know.

10          Q.    To your knowledge, is there any Cuban

11   company today selling a cigar called La Aroma de

12   Cuba?

13          A.    I -- I think there might.

14          Q.    In the United States?

15          A.    Not in the United States, no.  No, no.

16          Q.    Are you actually familiar with -- Do you

17   actually know whether or not there is a Cuban

18   company selling a La Aroma de Cuba cigar?

19          A.    No.

20          Q.    Okay.  As a general manner, is it common

21   for cigar stores in the United States to have the

22   word Havana or the word Cuba in their name?

1 MR. FRANK: Objection.

2 A. Yes, many do.

3 Q. Do any of those stores sell Cuban  
4 cigars?

5 MR. FRANK: Objection.

6 A. Not to my knowledge.

7 Q. To your understanding, do consumers  
8 believe, when they enter those stores, that they  
9 can buy Cuban cigars?

10 MR. FRANK: Objection.

11 A. I don't know what consumers think, but I  
12 assume that they don't -- they know they're not  
13 getting a Cuban cigar.

14 Q. Would it be illegal for them to purchase  
15 a Cuban cigar in the United States?

16 MR. FRANK: Objection.

17 A. Yes.

18 Q. Are there other cigars sold in the  
19 United States which have an association -- I will  
20 withdraw that question.

21 How many -- Do you have any idea how  
22 many brick and mortar retail outlets sell General



1 Cigar Cohiba cigar?

2 A. I would venture to guess it is in excess  
3 of a thousand, plus indirect customers is probably  
4 a couple thousand retail shops across the country.

5 Q. That sell Cohiba cigars?

6 A. Yes, sir.

7 Q. Do many of those cigar stores have  
8 websites?

9 MR. FRANK: Objection.

10 Q. To your knowledge.

11 A. Many do, yes.

12 Q. Do you know if General Cigar has the  
13 right to direct those brick and mortar cigar  
14 merchants as to how they describe General Cigar  
15 Cohiba cigars on their websites?

16 A. I don't --

17 MR. FRANK: Objection.

18 A. -- know, I wouldn't think so.

19 Q. I am sorry. The witness's answer didn't  
20 come through before the objection. Could you  
21 repeat what you just said?

22 A. I don't know, but I wouldn't think so.

1           Q.    Let me direct your attention to this  
2 document, which is Martinez 7.

3                    You were asked some questions by  
4 Mr. Frank about this document.  Could you describe  
5 again for our benefit what these documents are  
6 intended to represent?

7           [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11           [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED] [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED] [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED] [REDACTED]  
14 [REDACTED] [REDACTED]  
15 [REDACTED]  
16 [REDACTED] [REDACTED]  
17 [REDACTED] [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED] [REDACTED]  
22 [REDACTED]

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED] [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED] [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED] [REDACTED]  
12 [REDACTED]  
13 [REDACTED] [REDACTED]  
14 [REDACTED]

15 Q. Okay. Thank you very much on that.

16 I will draw your attention now to  
17 Martinez 12, which is the printouts of the  
18 Facebook page that were done by counsel for  
19 Cubatabaco.

20 You were asked some questions about  
21 this, and I have a few myself.

22 Do you know whether or not these

1 printouts actually represent the way in which the  
2 consumer would see the front page of the Cohiba  
3 Facebook page on the screen of a computer or other  
4 device?

5 MR. FRANK: Objection.

6 A. I don't know.

7 Q. You don't know if this is representative  
8 or not; correct?

9 A. I don't, because it could vary by  
10 computer screen, by device, et cetera.

11 Q. Now, the highlighted, in the left  
12 column, under Cohiba, what -- the word About is  
13 highlighted; do you see that?

14 A. Yes.

15 Q. When someone first goes to the Cohiba  
16 page for the General Cigar Cohiba on Facebook, do  
17 they land on the About page?

18 MR. FRANK: Objection.

19 A. They land on the Home page.

20 Q. So this is not representative of what  
21 the consumer would see when they first go to the  
22 page?

1 MR. FRANK: Objection.

2 Q. Is that correct?

3 MR. FRANK: Objection.

4 A. This is not what they first see, no.

5 Q. Okay. In order to be able to go to the  
6 About page, do you have to, while you are on the  
7 Home page, click on the About tab?

8 A. Yes.

9 Q. Okay. Now, I would like to direct your  
10 attention to, let's start with page 330 -- I guess  
11 you will have to look at 33028 and 29, because  
12 they needed to take two pictures in order to fully  
13 capture this page.

14 Now, you were asked about the milestone  
15 section under the About section of the General  
16 Cigar Cohiba Facebook page. Do you recall being  
17 asked about that?

18 A. Yes.

19 Q. Now, is there any way to tell how many  
20 consumers have actually looked at this page?

21 MR. FRANK: Objection.

22 A. Have looked at it?

1 Q. Yes.

2 A. No. I know how many people have liked  
3 it.

4 Q. Now, in order to like a page, do you  
5 have to have that page in front of you?

6 A. I believe so, yes.

7 Q. And I know it is hard to read, so I will  
8 hope counsel will concur with me, that this page  
9 shows 50 likes, the number 50 is next to the  
10 thumbs up symbol.

11 MR. DEUTSCH: Have I read that  
12 correctly?

13 MR. FRANK: You have accurately  
14 represented that.

15 MR. DEUTSCH: Does it also say there are  
16 three comments, more easily seen on the second of  
17 the two pages?

18 MR. FRANK: Correct.

19 Q. Okay. Now, let's turn to the next page  
20 in the milestone. Actually, no, just let me ask  
21 you the question.

22 Based on looking at this page, are you



1     able to tell that 50 users saw this page?

2             MR. FRANK:  Objection.

3             A.     No.

4             Q.     Okay.  All you know is that there are 50  
5     likes?

6             A.     Yes.  And I think you said there was  
7     three comments.

8             Q.     Three comments.  Well, just to be clear,  
9     to like a page, a user has to be viewing the page;  
10    correct?

11            A.     Yes.

12            Q.     So from this page, we know that 50 users  
13    viewed the page and clicked on like; is that  
14    correct?

15            A.     Yes.

16            Q.     But we don't know if more than 50 looked  
17    at it?

18            A.     We don't.

19            Q.     And there are three comments here, and  
20    you pointed that out as well?

21            A.     Yes.

22            Q.     Okay.  Turn to the page 33030.  This is

1     apparently the second page in the milestone  
2     section of the About section of the General Cigar  
3     Cohiba Facebook. Can you read the number of likes  
4     for this page, which is Cohiba Black arrives.

5             A.     I think it says 28.

6             Q.     Well, that's what I see as well.

7             MR. FRANK: I'd say that's correct.

8             Q.     It says one comment; is that correct?

9             A.     Yes, on the right, yes.

10            Q.     So do we know -- We know that 28 people  
11     saw this page, correct, and liked it?

12            A.     Yes, sir.

13            Q.     Do we know if more than 28 people saw  
14     this page?

15            MR. FRANK: Objection.

16            A.     I don't.

17            Q.     Okay. Let's go to the next page on the  
18     milestone. This is about the Cohiba -- I don't  
19     know if this is pronounced XV or 15.

20            A.     Which number is this?

21            Q.     This is now 33032 and 033. Is that 15  
22     or XV?

1           A.    It is XV.)

2           Q.    XV. Okay. Can you see the number of  
3 likes for this page?

4           A.    This looks like it is 12.)

5           Q.    So we know that 12 people viewed this  
6 page in order to be able to like this?

7           A.    Yes, sir.)

8           Q.    Do you know if anyone other than 12  
9 people viewed this page?

10          A.    I don't.)

11          Q.    There is one comment shown on this page?

12          A.    Yes.)

13          Q.    Okay. Turn to the next milestone. This  
14 is the one I believe you were asked about, Cohiba  
15 goes worldwide.)

16          A.    Yes.)

17          Q.    Do you see that? Can you read the  
18 number of likes on the bottom of the page? If  
19 not, I will represent to you --

20          A.    I can't read it.)

21          Q.    I will represent to you that that says  
22 13.)

1           A.    Okay.

2                   MR. DEUTSCH:  And I think counsel can  
3 confirm.

4                   MR. FRANK:  I concur.

5           Q.    And it says one comment.

6           A.    I see that.

7           Q.    Now, is it correct that to like this  
8 page, one had to be viewing it?

9           A.    Yes, sir.

10          Q.    So we know that 13 people viewed this  
11 page?

12                   MR. FRANK:  Objection.

13          Q.    Is that correct?

14          A.    Yes.

15          Q.    Do we know if more than 13 people ever  
16 viewed this page?

17                   MR. FRANK:  Objection.

18          A.    No.

19          Q.    By the way, how many people -- do you  
20 have any knowledge as to how many people have  
21 viewed the Cohiba website since it was put up?

22          A.    I don't -- I don't know.  I don't know

1 if Moosylvania would be able to get us that  
2 information, but I don't know.

3 Q. Do you think it would be in the  
4 thousands?

5 A. I don't know.

6 Q. Okay. But you don't have any data on  
7 that?

8 A. No, not that I can recall.

9 Q. You don't know if 13 people represent a  
10 very small percentage of people who actually  
11 viewed the website or not; is that correct?

12 A. Correct.

13 MR. FRANK: To be clear, are you talking  
14 about the Facebook page or the Cohiba website?

15 MR. DEUTSCH: I am talking about the  
16 Cohiba Facebook site, I don't know if you call it  
17 a page or a site.

18 If it is not clear, I will ask the  
19 witness once again.

20 Q. Do you know how many people have  
21 actually accessed and looked at any page on the  
22 Cohiba Facebook site since it was put up?

1           A.    I do not.

2           Q.    Okay. Now, if you take a look at page  
3   33036, can you read -- This is the General Cigar  
4   crafts the Dominican Cohiba cigar page on the  
5   milestone, within the About section of the General  
6   Cigar Cohiba Facebook site. Does that say 13  
7   likes?

8           A.    I can't read it. Down at the --

9           MR. DEUTSCH: Counsel --

10          MR. FRANK: Yes, I concur, it is 13  
11   likes.

12          MR. DEUTSCH: And it doesn't show any  
13   comments at all.

14          MR. FRANK: Correct.

15          Q.    Okay. So we know that 13 people saw  
16   this page in order to be able to like it; correct?

17          MR. FRANK: Objection.

18          A.    Yes.

19          Q.    Do you know if any more than 13 people  
20   ever saw this page?

21          A.    I don't.

22          Q.    If you go to the page that says Founded

1 in 1496, I will represent to you, to speed this  
2 up, it appears that the number down there for  
3 likes is 5, at the very bottom.

4 MR. FRANK: Correct, I concur.

5 Q. And that there is one comment; correct?

6 MR. FRANK: I concur.

7 Q. Okay. So we know that five people  
8 viewed this page; correct?

9 MR. FRANK: Objection.

10 A. Yes.

11 Q. Because you have to view a page in order  
12 to like it; correct?

13 A. Correct, yes, sir.

14 Q. Do you know if any more than five people  
15 have viewed this page?

16 A. I don't.

17 Q. Now, I will direct your attention to  
18 CT33031, which is the Cohiba Black arrives page.

19 A. Yes.

20 Q. You were asked about a comment from a  
21 Dave Pipher or Pipher that appears on this page.

22 A. Yes.

1           Q.    Do you have any idea how many consumers  
2 actually saw that comment?

3           A.    I don't.

4           Q.    In order to see that comment, a consumer  
5 would have to go to the Facebook page, land on the  
6 home page, click on the About section and page  
7 down to this particular piece of the milestones,  
8 in order to be able to read that comment; is that  
9 not correct?

10           MR. FRANK:  Objection.

11           A.    That's correct, that's the process, yes.

12           Q.    Okay.  I am through with that.

13                    You were asked some questions about a  
14 plan created in 2013 for the 2014 year regarding  
15 the Cohiba.  Do you remember those questions?

16           A.    Yeah, I remember I was asked a question  
17 about '13 and '14, I believe.

18           [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22           [REDACTED]   [REDACTED]



1 MR. FRANK: Objection as to  
2 characterization.

3 Q. What is a high net worth individual in  
4 marketing speak?

5 MR. FRANK: Objection.

6 A. We typically refer to it as the 1  
7 percenters. It is kind of a generic term of how  
8 that is defined.

9 [REDACTED]  
10 [REDACTED]

11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]  
17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 Q. Now, this is actually my last couple of  
22 questions. You testified, towards the end of your

1 examination by Mr. Frank, that there may have been  
2 references to the Cohiba Red Dot in trade  
3 communications to retailers that sell the General  
4 Cigar Cohiba cigar; do you recall that?

5 A. Yes.

6 Q. Does the Cohiba Red Dot refer to any of  
7 the sub brands or varieties of General Cigar  
8 Cohiba cigar?

9 A. We typically refer to the I guess the --  
10 I will call it the plain wood box as Red Dot, the  
11 Black box is Black, Nicaragua is Nicaragua, the  
12 blue box is Blue.

13 Q. Now, is there a name for the cigar that  
14 is sold in the plain wooden box?

15 A. No.

16 Q. Okay. This is -- but that cigar was  
17 only one of the number of varieties of Cohiba  
18 cigars that General Cigar sells?

19 A. Correct.

20 Q. So when -- if Red Dot had been used in  
21 trade communications, would the merchants know  
22 this was not referring to the Cohiba, all of the

1 General Cigar Cohiba cigars, but to a particular  
2 variety of such cigar?

3 A. Correct, the one in the plain wood box.

4 MR. DEUTSCH: Okay. No further  
5 questions.

6 MR. FRANK: I don't think I will take  
7 too long but just give me three minutes.

8 (Discussion held off the record.)

9 REDIRECT EXAMINATION BY COUNSEL FOR THE PETITIONER  
10 BY MR. FRANK:

11 Q. You will recall that Mr. Deutsch just  
12 asked you a series of questions, one of which was,  
13 in your experience, do American consumers draw  
14 association with Cuba with respect to hand-rolled  
15 cigars sold, and you answered yes. Do you recall  
16 that?

17 A. That's correct, yes, sir.

18 Q. What is the basis of your opinion?

19 A. As I mentioned earlier, consumers  
20 typically make a general association with  
21 different brands with Cuba, and, again, maybe it  
22 is because of the roots of many of the cigar

1 brands, it's the names, and that's just kind of, I  
2 don't want to say common terminology, but there is  
3 a lot of, you know, connection between cigar  
4 brands and names with -- with Cuba.

5 Q. What evidence do you have of that?

6 A. I think, obviously, you will see it  
7 again in the vernacular, imagery, conversations  
8 that I personally had, also again, with the  
9 associations with, you know, Benji Menendez, I  
10 used that as an example earlier, Rick Rodriguez,  
11 those are two very prominent and well-known Cuban  
12 and slash Cuban Americans that are associated with  
13 just our brands, and there is many others.

14 Q. And does the Cohiba brand cigar have  
15 roots in Cuba?

16 MR. DEUTSCH: Objection.

17 A. There is a brand that is sold out of  
18 Cuba, yes.

19 Q. Did -- To your knowledge, did that brand  
20 precede General Cigar's Cohiba brand cigar?

21 MR. DEUTSCH: Objection.

22 A. I think -- I don't know. I think it

1 might have.

2 Q. You said -- Your opinion was based in  
3 part on conversations. Specifically which  
4 conversations form the basis of your opinion?

5 A. So I have an opportunity to go to  
6 different shops, consumer events, where we meet  
7 with, you know, thousands of consumers and have  
8 just informal conversations with them as we either  
9 sell them cigars or give them cigars at certain  
10 ticketed events, and so, in those conversations,  
11 those types of -- you know, those topics come up.

12 Q. Did the topic of drawing a -- Do you  
13 recall any specific conversations with consumers  
14 about the specific topic?

15 A. About which specific topic?

16 Q. The association with Cuba and  
17 hand-rolled cigars.

18 A. Yeah, absolutely.

19 Q. How many?

20 A. Several. I mean we would do rolling  
21 events, where we would have Benji, or another  
22 roller from Miami, Leo Peraza, who would come and

1 people would ask questions, and Leo doesn't speak  
2 much English, so, you know, we would have  
3 conversations about his background and his family  
4 and, you know, his travels from Cuba to the United  
5 States and how he became a roller for General  
6 Cigar.

7 Q. And do you remember how many  
8 conversations you would have exactly?

9 A. A dozen or so.

10 Q. Over the period starting in  
11 November 2012 to current?

12 A. At least that, yes.

13 Q. Other than those 12 conversations, were  
14 there any other conversations with customers that  
15 form the basis of that opinion?

16 A. Not specific to the topic of a  
17 connection between hand-rolled cigars and Cuba.

18 Q. And do you know on what dates those 12  
19 conversations occurred?

20 A. I don't know specific dates.

21 Q. Do you know if those consumers would  
22 be -- I am sorry. Where did those conversations

1 take place, did you say at trade shows?

2 A. They would be at consumer shows, so we  
3 do things such as it is called Big Smoke, which is  
4 sponsored by Cigar Aficionado, CIGARfest, which is  
5 sponsored by Cigars International, large consumer  
6 events.

7 Q. Would all of those 12 conversations have  
8 occurred at one of those large consumer events?

9 A. Some of them could have occurred at  
10 smaller rolling events. So, for example, there  
11 was an event held by the Virginia Hispanic Chamber  
12 of Commerce here in town and there was a roller  
13 that we -- we were a sponsor of the event, and he  
14 came in, and I had a conversation with, you know,  
15 two or three consumers at that event around the  
16 topic of Cuba and hand-rolled cigars.

17 Q. And the consumers -- the consumer shows,  
18 would you characterize the type of person that  
19 attends -- the type of consumer that attends those  
20 shows as a cigar lover?

21 A. I wouldn't call them necessarily a cigar  
22 lover, but they're certainly an individual who

1 enjoys cigars, otherwise, they wouldn't pay for  
2 the admission into those types of events.

3 Q. Do you know how much the admission is to  
4 those types of events?

5 A. It varies. I want to say a cigar -- our  
6 Big Smoke was like 300 and some odd dollars, and  
7 then I want to say CIGARfest may be in the same  
8 range, maybe a little bit higher.

9 Q. So other than those 12 conversations,  
10 approximately 12 conversations that you had with  
11 consumers, what else forms the basis of your  
12 opinion that it is common, in terms of how people  
13 talk about cigars, to connect Cuba and premium  
14 hand-rolled cigars?

15 MR. DEUTSCH: Objection. Asked and  
16 answered. You can answer again.

17 A. Again, if you look at imagery, imagery,  
18 text, names, --

19 THE COURT REPORTER: I am sorry. Text?

20 A. Text, written letters, imagery, names,  
21 descriptions, it is pretty prevalent. I mean open  
22 up a Cigar Aficionado magazine or any publication,



1 and I think you will see many, many references to  
2 connections between Cuba and various brands.

3 Q. Cuba and various brands?

4 A. Cuban, I call it iconography, imagery,  
5 again words.

6 Q. What is the imagery that would connect  
7 Cuba to premium hand-rolled cigars?

8 A. Again, a lot of times it is tobacco  
9 fields, again, it is real -- it is up to  
10 interpretation. Is it Dominican, is it  
11 Nicaraguan, is it Cuban. So in terms of its -- it  
12 is really in the eye of the consumer as to what  
13 that is, but what you will see is that there are  
14 strong associations and inferences to Cuba in a  
15 lot of the communication with I would say  
16 manufacturers, certainly from retailers.

17 Q. But in terms of iconography or images,  
18 you say it is in the eye of the consumer as to  
19 whether or not a field would draw a connection  
20 between Cuba and premium hand-rolled cigars. What  
21 about the field would make a consumer connect  
22 hand-rolled cigars to Cuba as opposed to the

1 Dominican Republic or Nicaragua?

2 A. For me, it is the combination of both  
3 the imagery and the language, so Havana  
4 Connections with a field makes -- again, you can't  
5 get into the mind of a consumer, but the inference  
6 is that, you know, Havana or, you know, whatever  
7 it be, you know, Cubana, whatever terminology, and  
8 then showing the imagery, bringing those two  
9 elements together infers a certain connectivity to  
10 Cuba, and different manufacturers do that,  
11 retailers do that on a pretty frequent basis.

12 Q. Does General Cigar do that?

13 A. We do not.

14 Q. Which manufacturers do that?

15 A. I would have to -- I would have to look,  
16 you know, at their advertising, their copy, the  
17 websites. I would have -- I don't want to guess.

18 Q. Do retailers General Cigar works with do  
19 that?

20 A. I have seen, yes. Again, you know, this  
21 is -- sure enough, in our backward, Havana  
22 Connections, I mean they -- they do it. Other --

1     you know, again, go down to, you know -- down to  
2     Miami and walk down the street and you will see  
3     multiple shops that make that connectivity either  
4     because the shop owners are Cuban, but there  
5     certainly -- they -- there is a lot of  
6     connectivity between Cuba and the premium  
7     hand-rolled cigar industry, in my opinion.

8           Q.     At one point, in response to  
9     Mr. Deutsch's questioning, Mr. Deutsch asked to  
10    your understanding, do consumers believe, when  
11    they enter the retail stores that Mr. Deutsch  
12    identified, that they can buy Cuban cigars, and  
13    your response was I don't know what consumers  
14    think, but I assume that they -- they know they're  
15    not getting a Cuban cigar. What forms the basis  
16    of that assumption?

17          A.     Again, it is -- I -- as I said, I can't  
18    get into the minds of what consumers think or what  
19    they want to believe, but I would -- I would  
20    assume that they know, you know, given it is kind  
21    of general knowledge, that you can't buy Cuban  
22    cigars here in the United States.

1 Q. And --

2 A. It is just -- It is my opinion, it is  
3 not based on any research or fact.

4 Q. No research, no evidence, no fact.

5 A. No.

6 Q. I direct your attention back to Exhibit  
7 Martinez 7, the brand essence charts, those two  
8 pages.

9 A. Yes, sir. Yes.

10 Q. Mr. Deutsch asked you a series of  
11 questions about the significance of the different  
12 levels, the different concentric circles; is that  
13 correct?

14 A. Yes, sir.

15 Q. Are there words that describe cigars  
16 that are not included on these charts?

17 MR. DEUTSCH: Objection.

18 A. This is based upon the opinions and  
19 thoughts of the three folks that I remember being  
20 in the room when we developed these.

21 Q. But would there be characteristics of  
22 cigars that wouldn't be included on this chart?

1 MR. DEUTSCH: Objection.

2 A. There could be.

3 Q. Are some of the words that appear on  
4 30861 not included on the chart for -- on 30862?

5 A. Correct.

6 Q. So some characteristics from page 61 are  
7 not relevant to page 62?

8 MR. DEUTSCH: Objection.

9 Q. Is that accurate?

10 MR. DEUTSCH: Objection.

11 A. I would say they wouldn't be central to  
12 or a component of the essence for that particular  
13 brand.

14 Q. So the ones that are on 862 are a  
15 component of the brand or an essence of the brand  
16 you just said?

17 A. They may or may not be. So, for  
18 example, they may not just show up on here, we  
19 could in theory say there is another halo that  
20 exists around it, but these are the three, you  
21 know, most relevant, you know, that fall within  
22 the importance of getting to the bullseye.

1 Q. So these are the three most important.  
2 There could be a fourth concentric circle or a  
3 fifth concentric circle or a sixth concentric  
4 circle?

5 MR. DEUTSCH: Objection.

6 A. No. No, I think most of it would be  
7 captured here, but there could be elements that  
8 are captured here that aren't necessarily relevant  
9 for another brand.

10 Q. So, for the record, you are pointing to  
11 861 --

12 A. Correct.

13 Q. -- saying not relevant to 862.

14 A. Potentially, that some of those  
15 descriptors for 861 would not be relevant for 862  
16 and vice versa.

17 Q. Turn your attention to Exhibit No. 12.  
18 Exhibit No. 12 is the Facebook page.

19 MR. DEUTSCH: Do you want me to put that  
20 shade up?

21 MR. FRANK: Sure. Thanks.

22 Q. Mr. Deutsch asked you a series of

1 questions about the numbers of likes for each of  
2 the milestones.

3 A. Yes, sir.

4 Q. And I believe you testified that if one  
5 of these pages, for example, I am looking at 33029  
6 indicates that there are 50 likes, counsel agreed,  
7 now that would indicate there are at least 50  
8 consumers that visited this page; is that  
9 accurate?

10 A. Correct.

11 Q. You cannot tell how many people visited,  
12 there could be more; is that correct?

13 A. Correct.

14 Q. There could be a thousand?

15 MR. DEUTSCH: Objection.

16 Q. Is that correct?

17 A. I don't know what number it could be.

18 Q. It could be any number. Could it --

19 A. It could be less --

20 Q. It couldn't be less than 50 --

21 A. I am saying --

22 Q. -- but it could be 10,000.

1 THE COURT REPORTER: Wait. You are both  
2 talking at the same time.

3 Q. But could it be 10,000?

4 MR. DEUTSCH: Objection.

5 A. Sure.

6 Q. Could it be a hundred thousand?

7 MR. DEUTSCH: Objection.

8 A. Views? Sure. I mean -- yeah, but I  
9 don't know.

10 Q. And is that the same for each of the  
11 slides that Mr. Deutsch reviewed, each of the  
12 milestone slides? We don't have to go through  
13 each and every one of them.

14 MR. DEUTSCH: Objection.

15 A. There is no way to determine how many  
16 views were on each one of these.

17 Q. The only way to determine based on the  
18 documents we have in front of us are that at least  
19 the number of people that liked each of these  
20 milestones visited each of these milestones; is  
21 that correct?

22 A. Correct, at least 50 people visited



1     that.

2           Q.     But there could have been many more?

3           MR. DEUTSCH:   Objection.

4           A.     Yes.

5           MR. FRANK:   I think I just missed one  
6     thing.   I am almost done.

7           I am done.

8           MR. DEUTSCH:   I just have two questions.

9     RE CROSS-EXAMINATION BY COUNSEL FOR THE RESPONDENTS  
10    BY MR. DEUTSCH:

11          Q.     You testified, in response to the most  
12     recent examination by Mr. Frank, that you attended  
13     an event held by the Virginia Hispanic Chamber of  
14     Commerce?

15          A.     Yes, sir.

16          Q.     That was, I think a demonstration of  
17     hand rolling cigars?

18          A.     Yes, sir.

19          Q.     Do you know what the admission charge,  
20     if there was one, was for that event?

21          A.     \$175 a person?

22          Q.     What do you get for \$175 a person?

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ACKNOWLEDGEMENT OF DEPONENT

I, AUGUSTIN MARTINEZ, III, do hereby  
acknowledge that I have read and examined the  
foregoing testimony, and the same is a true, correct  
and complete transcription of the testimony given by  
me and any corrections appear on the attached Errata  
sheet signed by me.

\_\_\_\_\_

(DATE)

\_\_\_\_\_

(SIGNATURE)

No. 161091

Re: Deposition of Augustin Martinez, III

Date: 9/28/2017

Case: Empresa Cubana Del Tabaco -v- General Cigar Co., Inc.

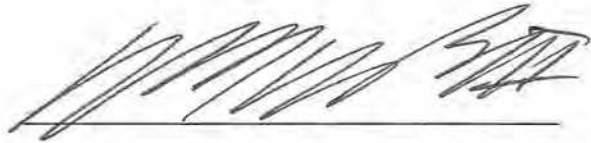
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foregoing testimony, and the same is a true, correct  
and complete transcription of the testimony given by  
me and any corrections appear on the attached Errata  
sheet signed by me.

11/15/17

(Date)



(Signature)

1 CERTIFICATE OF SHORTHAND REPORTER - NOTARY PUBLIC

2 I, LESLIE D. ETHEREDGE, Registered Merit  
3 Reporter, Certified Court Reporter and Notary  
4 Public, within and for the State of Virginia, do  
5 hereby certify:

6 That AUGUSTIN MARTINEZ, III, the witness whose  
7 deposition is hereinbefore set forth, was duly  
8 sworn by me before the commencement of such  
9 deposition and that such deposition was taken  
10 before me and is a true record to the best of my  
11 ability of the testimony given by such witness.

12 I further certify that the adverse  
13 party, General Cigar Co., Inc. and Culbro Corp.  
14 was represented by counsel at the deposition.

15 I further certify that the deposition of  
16 AUGUSTIN MARTINEZ, III occurred at the offices of  
17 ECKERT SEAMANS CHERIN & MELLOTT, 919 East Main Street,  
18 Suite 1300, Richmond, Virginia on Thursday,  
19 September 28, 2017, commencing at 9:02 a.m. to  
20 5:52 p.m.

21 I further certify that I am not related  
22 to any of the parties to this action by blood or

1 marriage, I am not employed by or an attorney to  
2 any of the parties to this action, and that I am  
3 in no way interested, financially or otherwise, in  
4 the outcome of this matter.

5 IN WITNESS WHEREOF, I have hereunto set  
6 my hand this 27th day of September, 2017.

7

8

9



10

LESLIE D. ETHEREDGE, Notary Public in

11

and for the Commonwealth of Virginia

12

Registration No: 116406

13

My commission expires February 28, 2019

14

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18

19

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22

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Transcript of Augustin Martinez, III  
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Transcript of Augustin Martinez, III  
Conducted on September 28, 2017

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

Date registered: June 6, 1995

-----	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----	X	

PARTY OFFERING: PETITIONER

**Exhibit 1 to the TTAB Discovery Deposition Transcript of  
Augustin Martinez, III, dated September 28, 2017**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

Date registered: June 6, 1995

-----X  
EMPRESA CUBANA DEL TABACO, d.b.a.  
CUBATABACO,

Petitioner,

v.

GENERAL CIGAR CO., INC. and CULBRO  
CORP.,

Respondents.  
-----X



**NOTICE OF DEPOSITION**

TO ALL INTERESTED PARTIES:

PLEASE TAKE NOTICE that, pursuant to Rules 26 and 30 of the Federal Rules of Civil Procedure and Title 37 of the Code of Federal Regulations Section 2.120, counsel for Petitioner will take the following depositions upon oral examination in the above-captioned proceeding, before a certified shorthand reporter or other person authorized to administer oaths:

1. The deposition of Steve Abbot on Wednesday, April 5, 2017, beginning at the hour of 9:00 a.m. (EST);
2. The deposition of Gus Martinez on Thursday, April 6, 2017, beginning at the hour of 9:00 a.m. (EST);

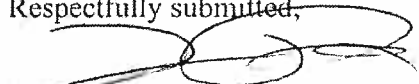


3. The deposition of Alan S. Willner on Friday, April 7, 2017, beginning at the hour of 9:00 a.m. (EST);
4. The deposition of Gene Richter on Tuesday, April 11, 2017, beginning at the hour of 9:00 a.m. (EST);
5. The deposition of Andres Maturen on Wednesday, April 12, 2017, beginning at the hour of 9:00 a.m. (EST); and
6. The deposition of General Cigar Co., Inc. and Culbro Corp. If Respondents designate as their Rule 30(b)(6) representative/s someone other than one or more of the above-identified deponents, then the deposition of such other Rule 30(b)(6) representative/s shall take place on Tuesday, April 4, 2017. The matters of examination during the deposition of Respondents shall be each of the admissions, denials, and averments as well as each defense that Respondents asserted in their Answer to Amended Petition for Cancellation, filed with the Trademark Trial and Appeal Board on July 7, 2011.

Said deposition shall be taken at a location to be determined in or around Richmond, Virginia.

Said deposition shall be recorded stenographically and continue from day to day until completed.

Respectfully submitted,



---

Michael Krinsky  
David B. Goldstein  
Lindsey Frank  
RABINOWITZ, BOUDIN, STANDARD,  
KRINSKY & LIEBERMAN, P.C.  
61 Broadway, 18<sup>th</sup> Floor  
New York, New York 10006  
(212) 254-1111  
[mkrinsky@rbskl.com](mailto:mkrinsky@rbskl.com)

*Attorneys for Petitioner Empresa Cubana del  
Tabaco d.b.a. Cubatabaco*

**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing Notice of Deposition was served on the following by electronic mail this 7<sup>th</sup> day of March, 2017:

Andrew L. Deutsch  
Kerry A. O'Neill  
Rodrigues, Airina  
DLA Piper US LLP  
1251 Avenue of the Americas  
New York, NY 10020  
Telephone: (212) 335-4673  
[andrew.deutsch@dlapiper.com](mailto:andrew.deutsch@dlapiper.com)  
[kerry.o'neill@dlapiper.com](mailto:kerry.o'neill@dlapiper.com)  
[Airina.Rodrigues@dlapiper.com](mailto:Airina.Rodrigues@dlapiper.com)

A handwritten signature in black ink, appearing to read 'Lindsey Frank', written over a horizontal line.

Lindsey Frank  
RABINOWITZ, BOUDIN, STANDARD, KRINSKY &  
LIEBERMAN, P.C.  
61 Broadway, 18th Floor  
New York, New York 10006

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

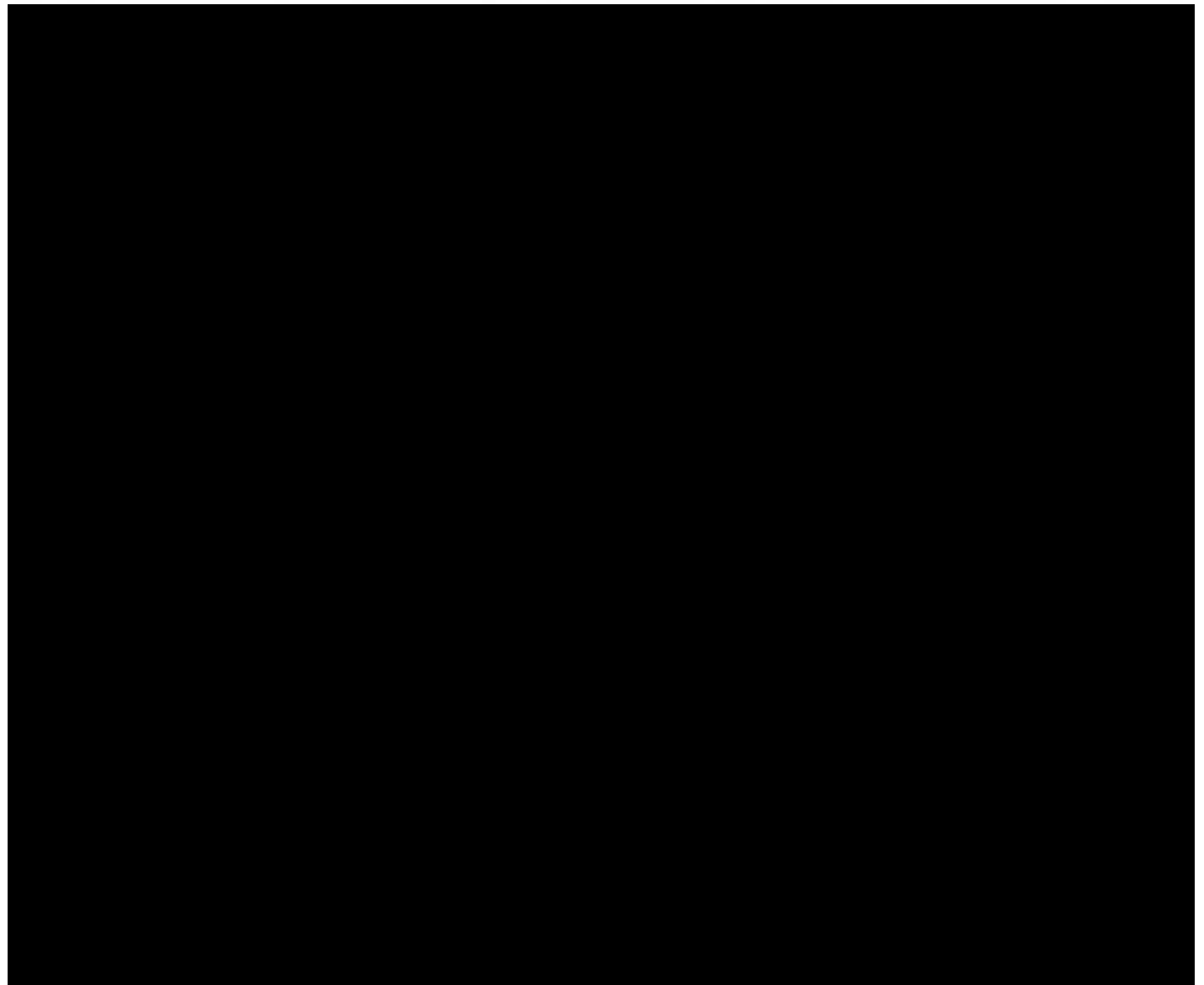
For the mark COHIBA

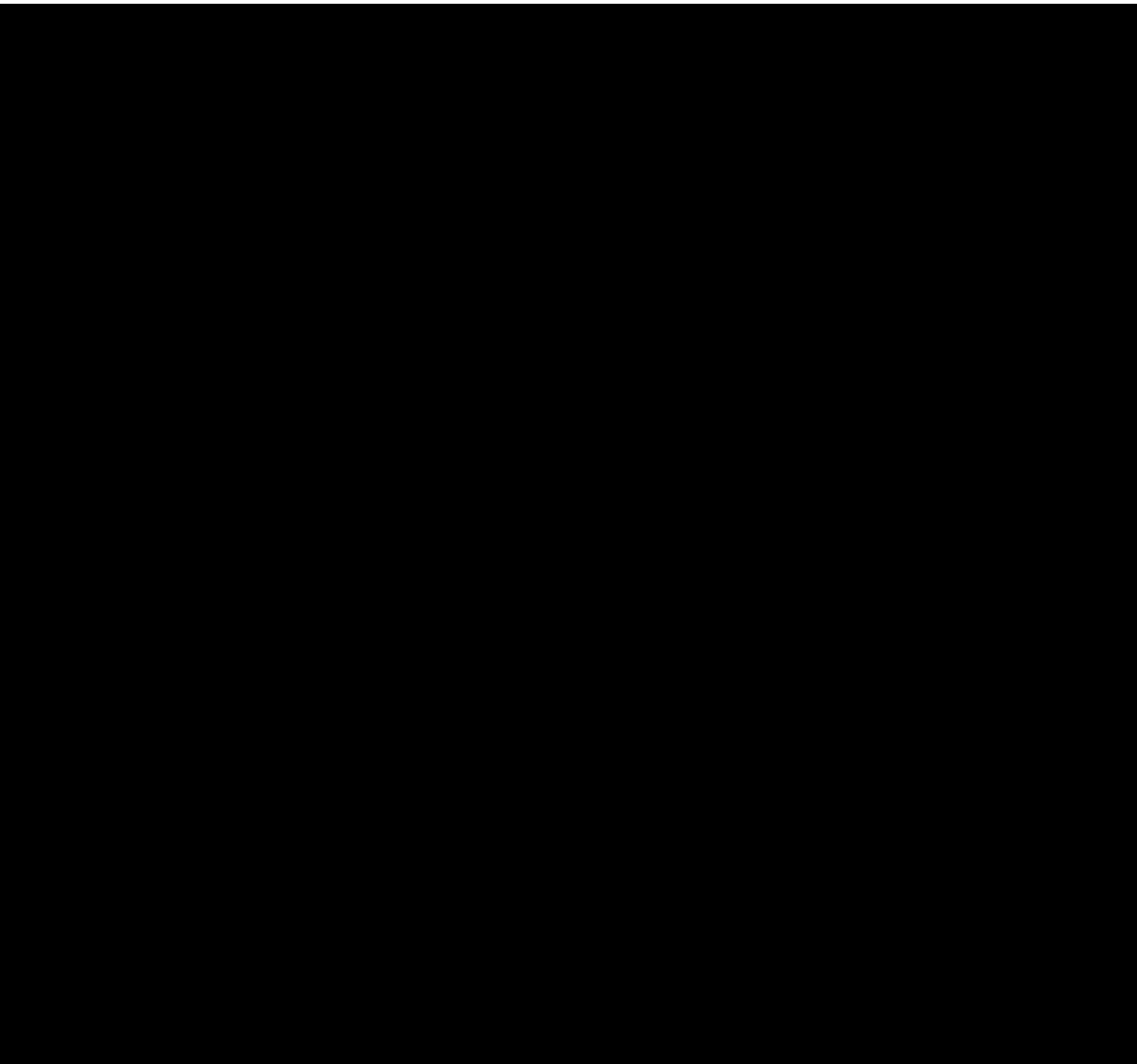
Date registered: June 6, 1995

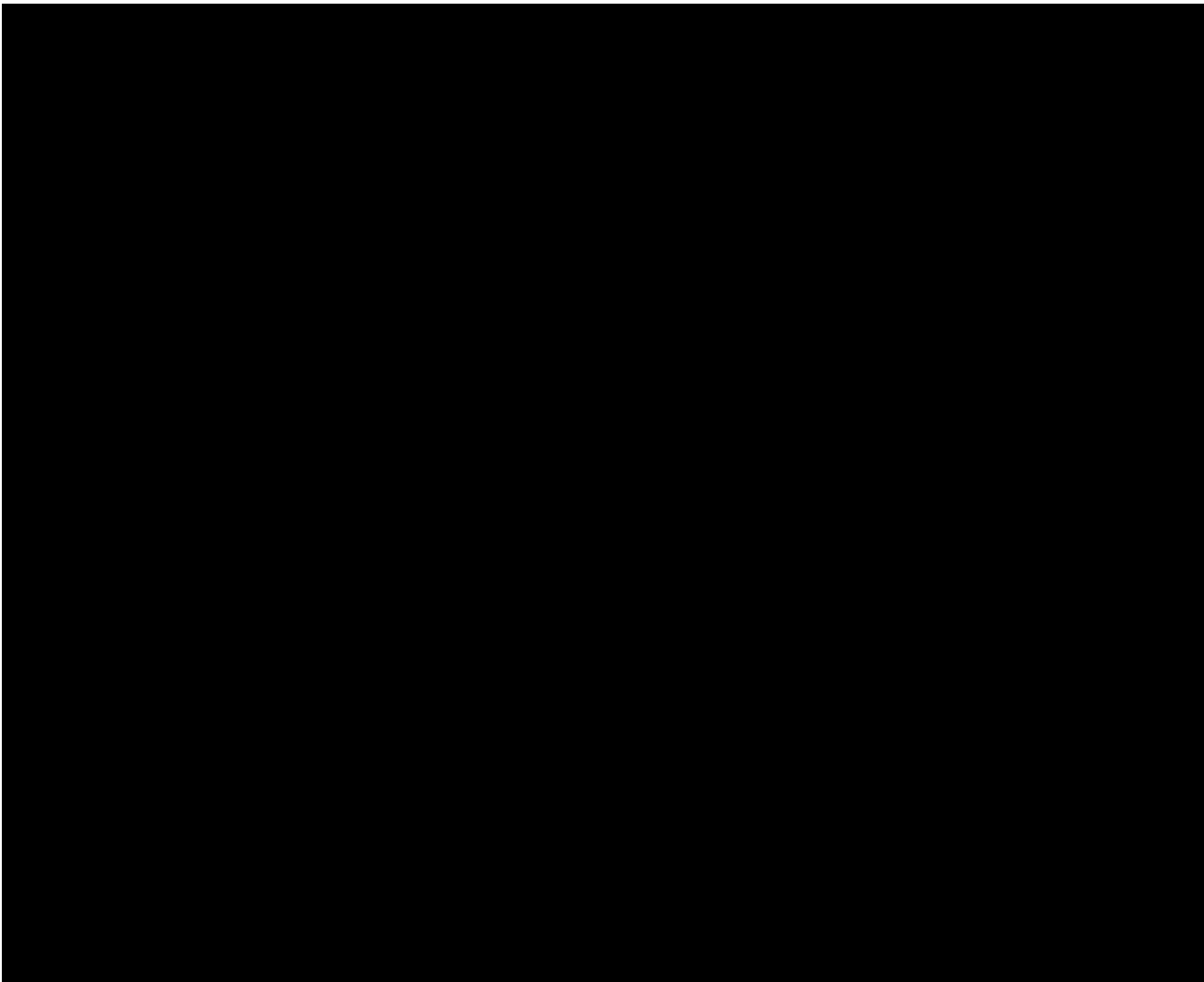
-----	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----	X	

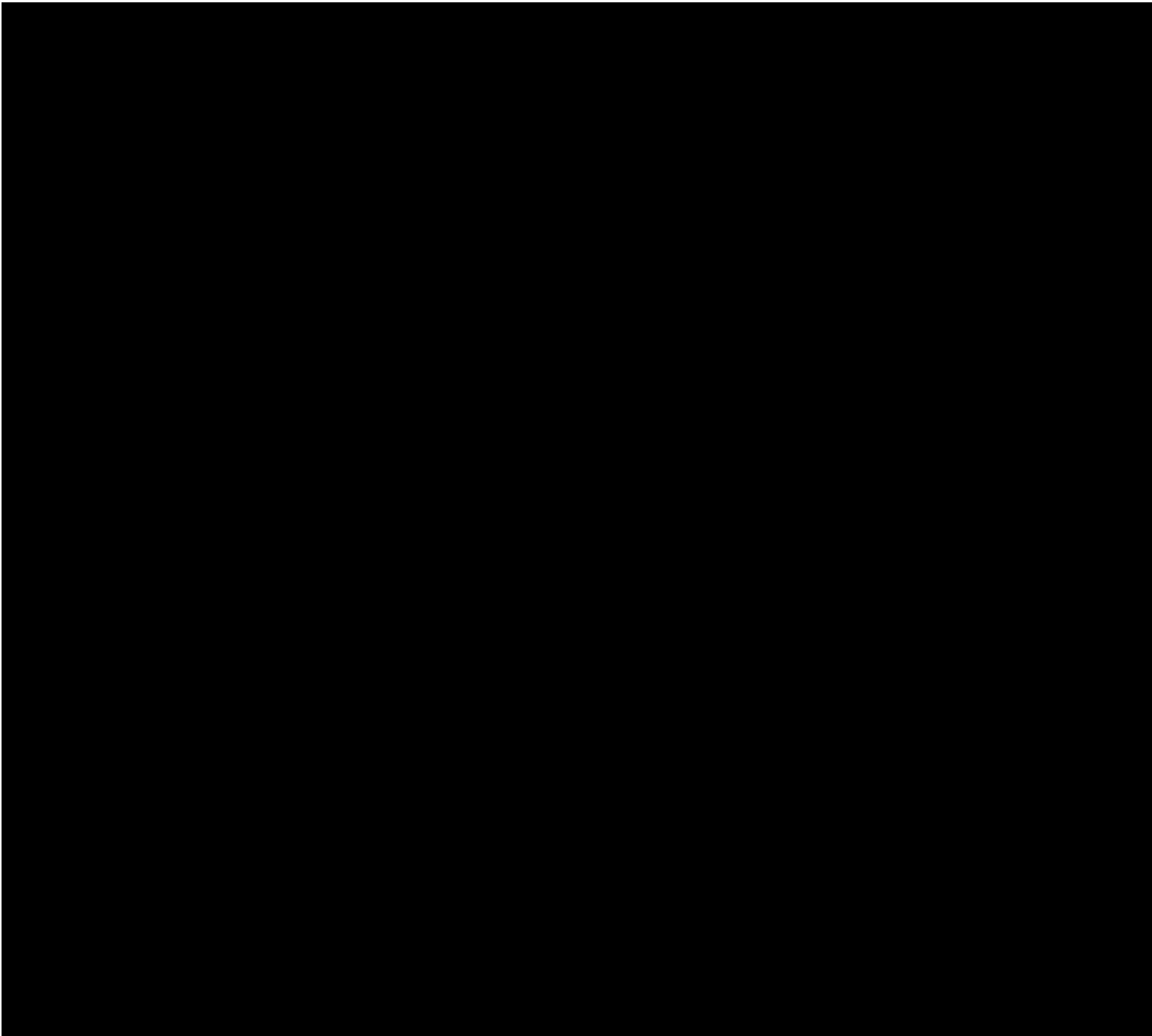
PARTY OFFERING: PETITIONER

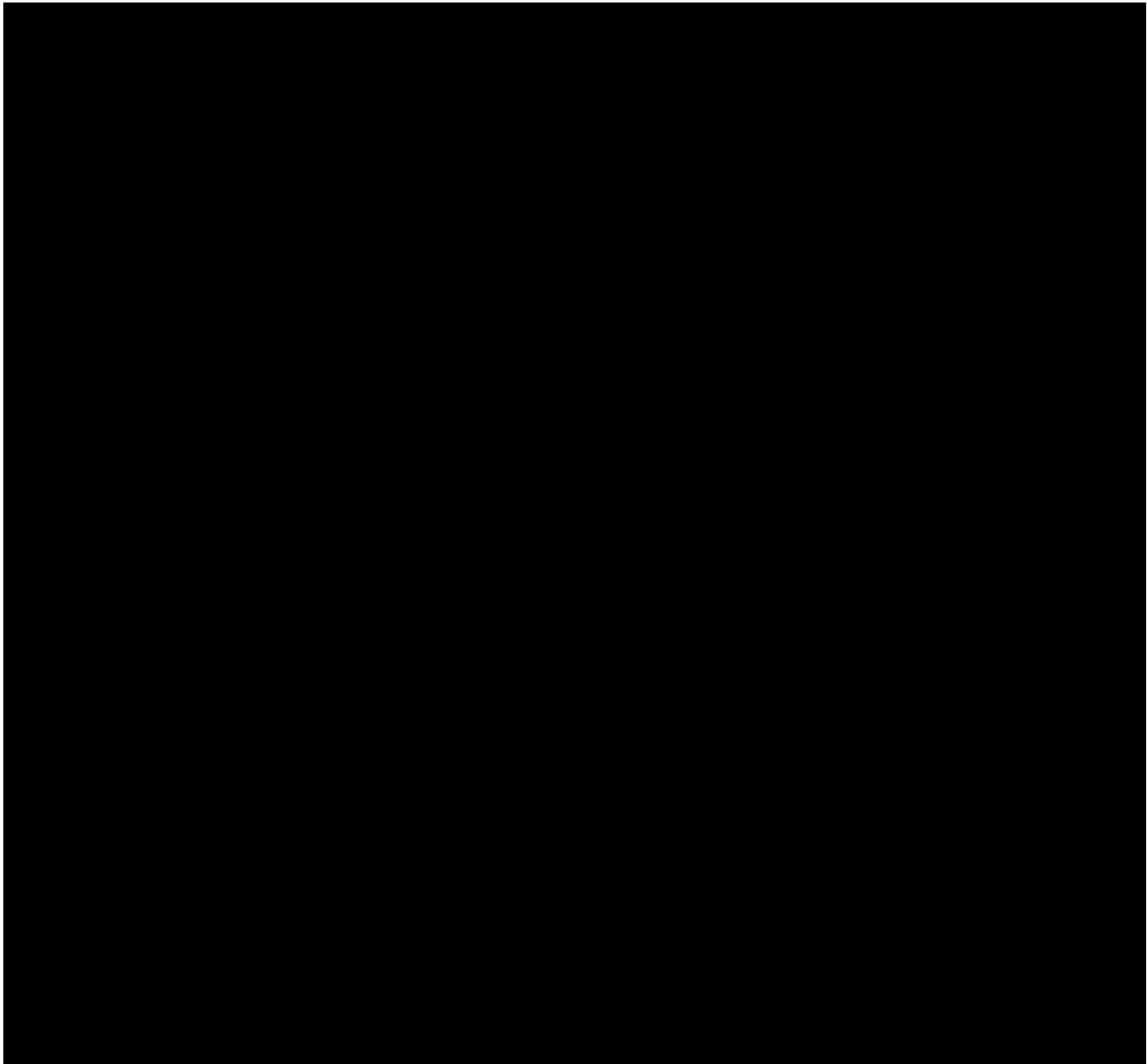
**Exhibit 2 to the TTAB Discovery Deposition Transcript of  
Augustin Martinez, III, dated September 28, 2017**



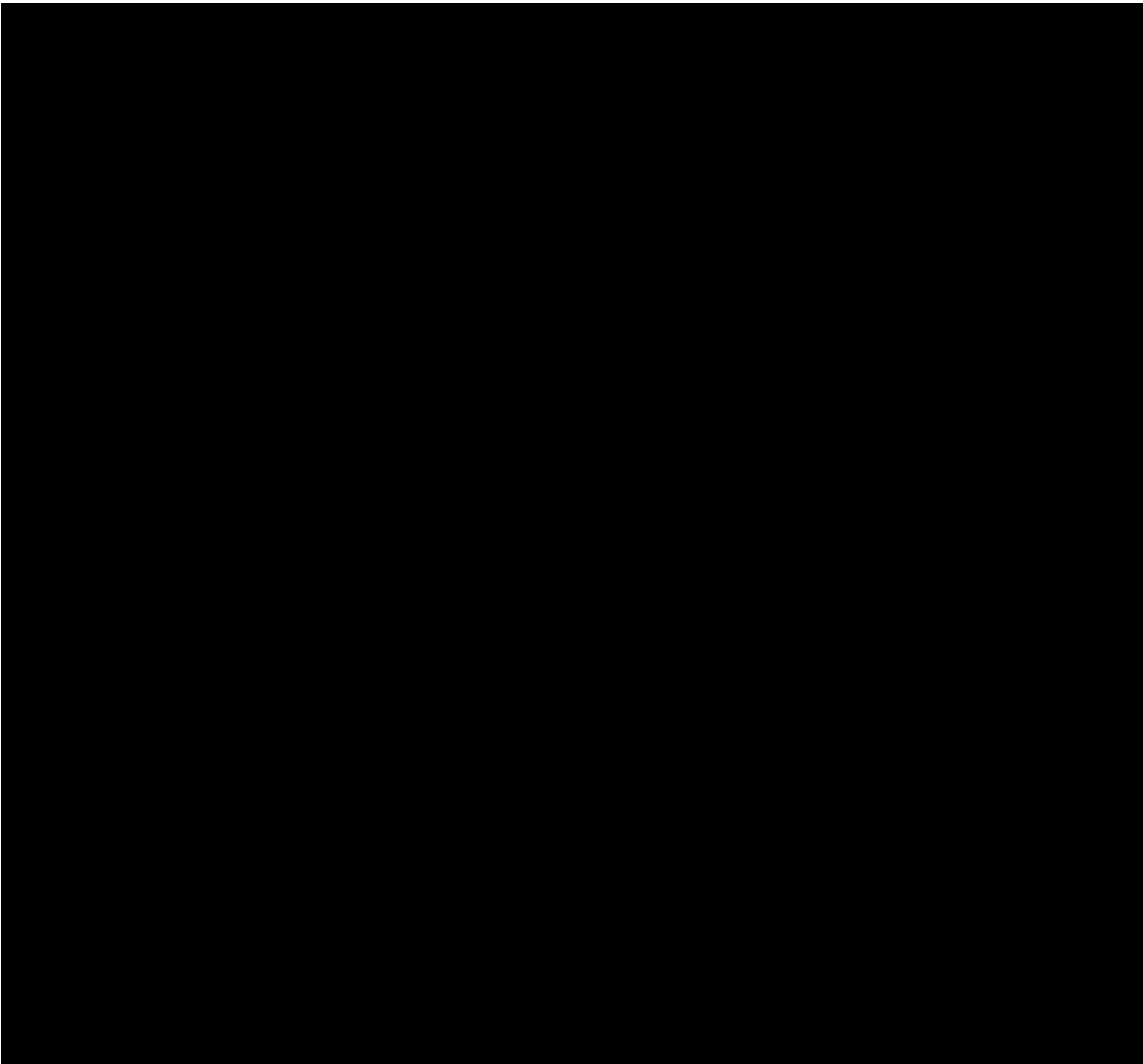


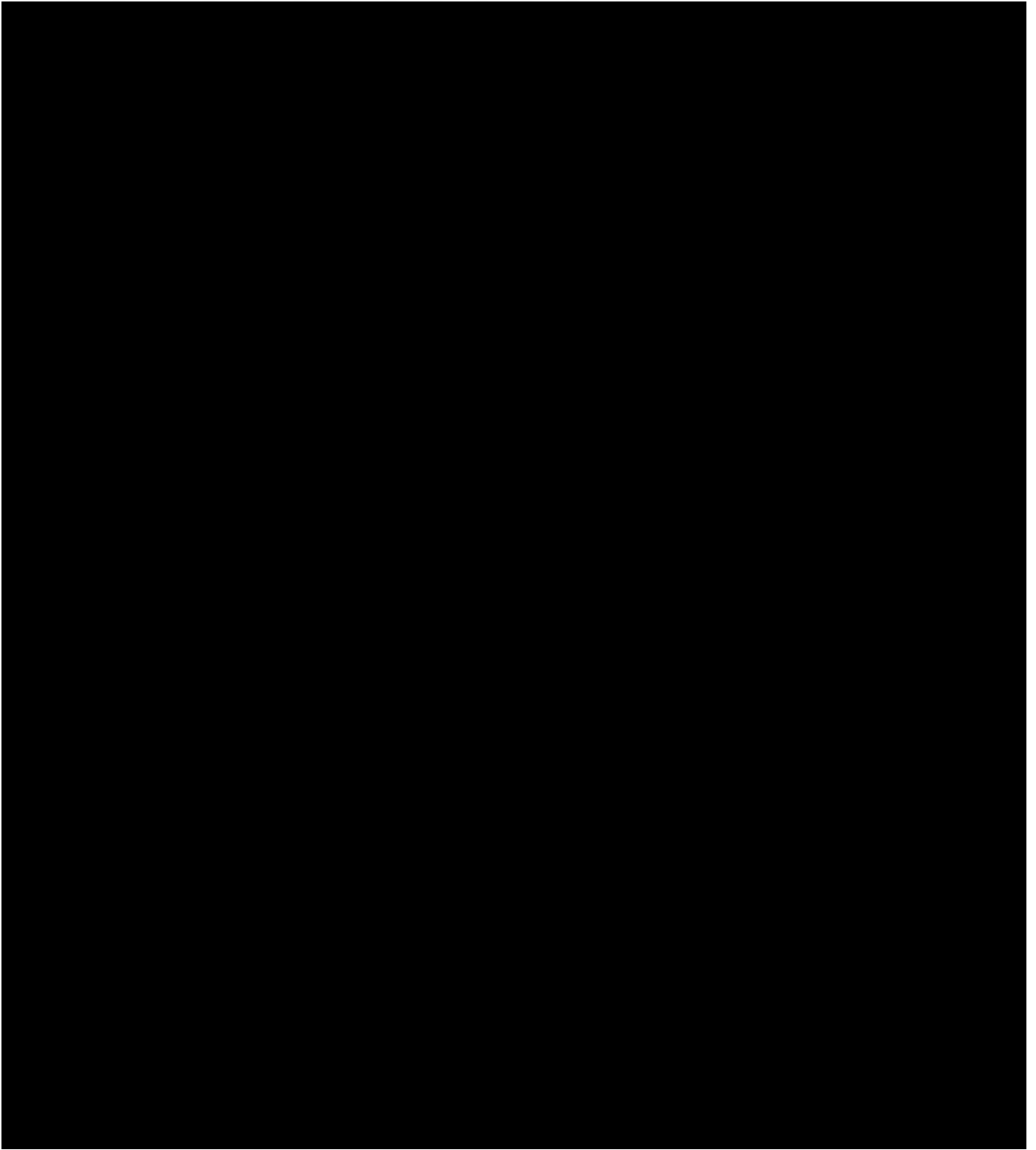


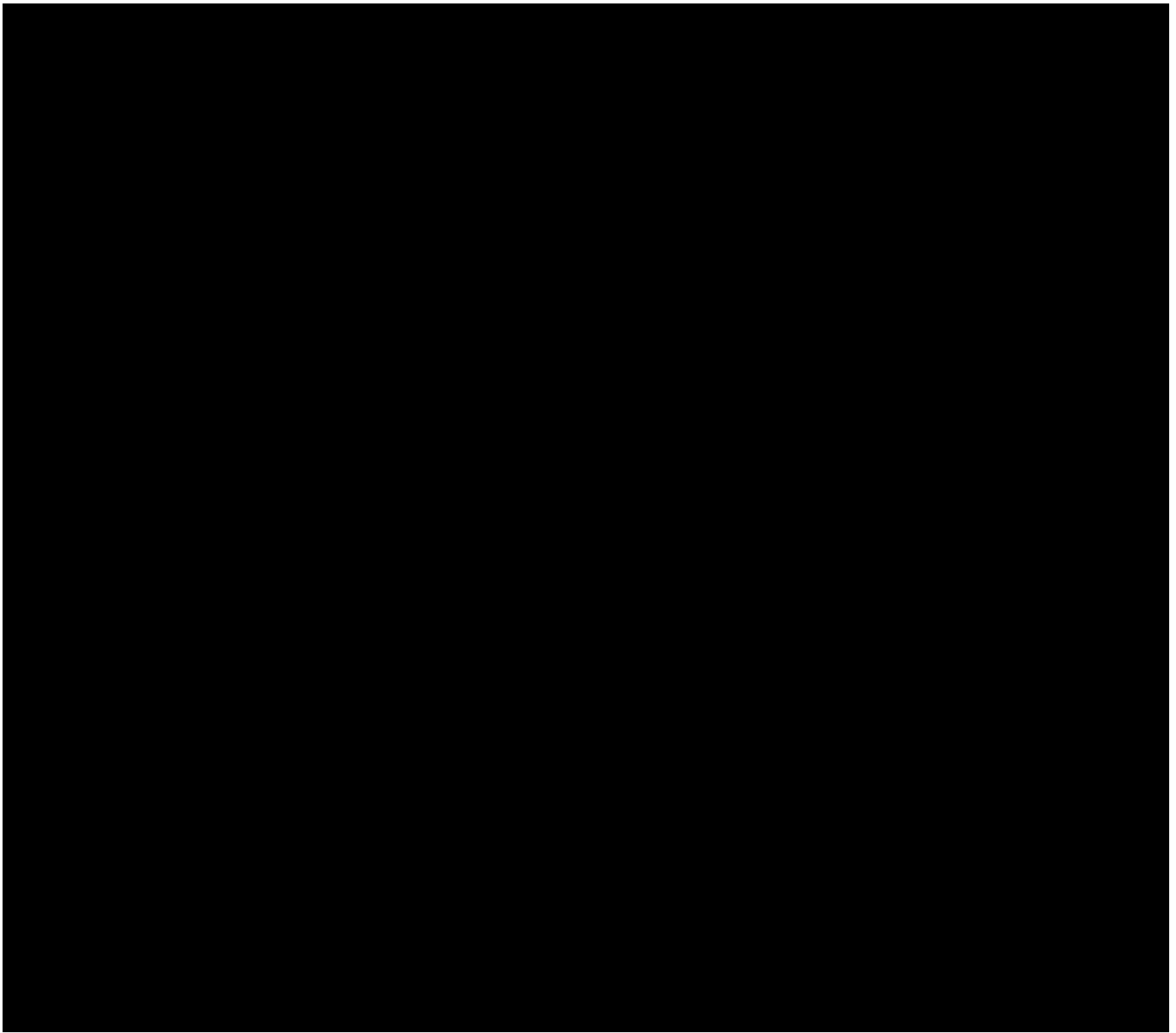


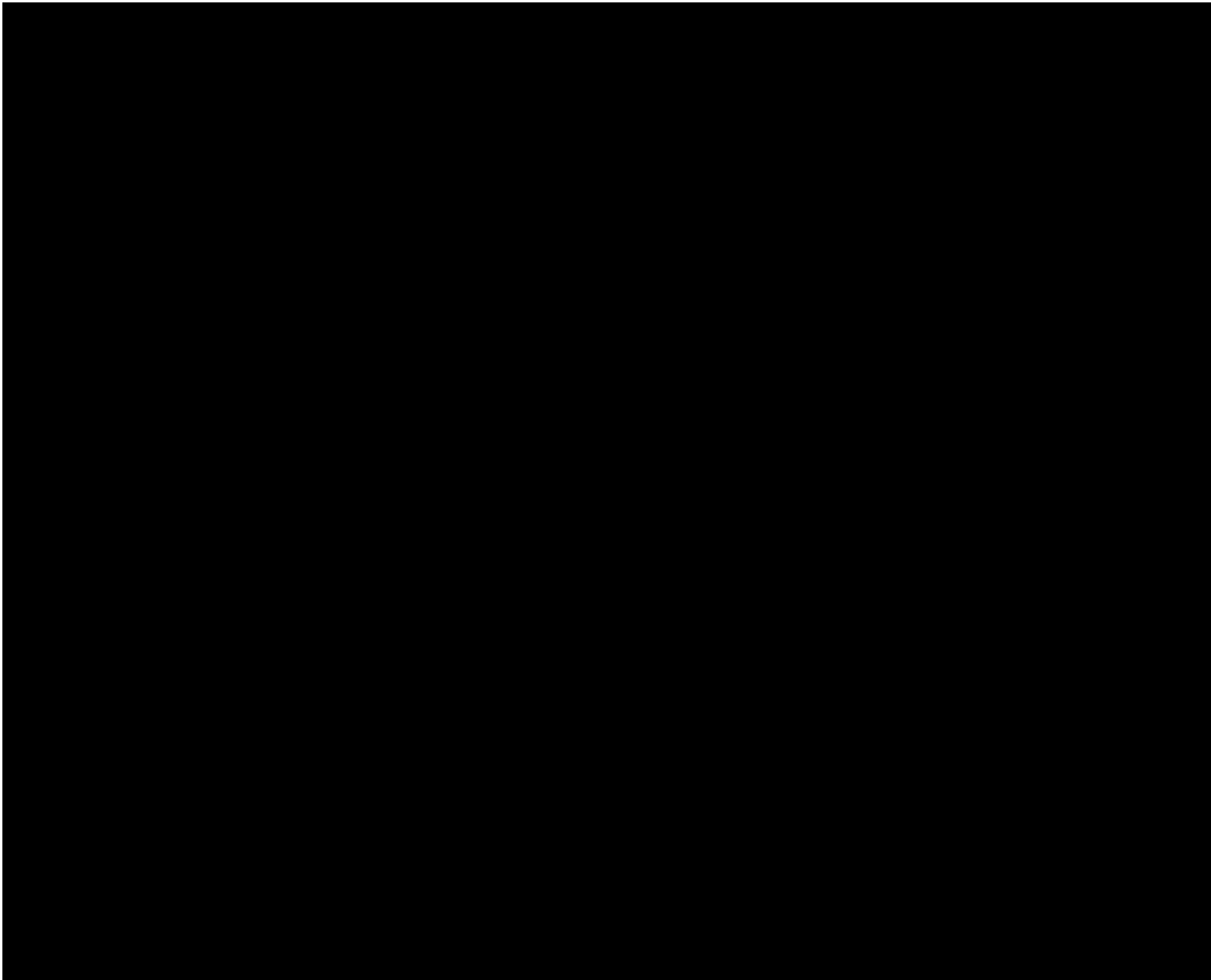


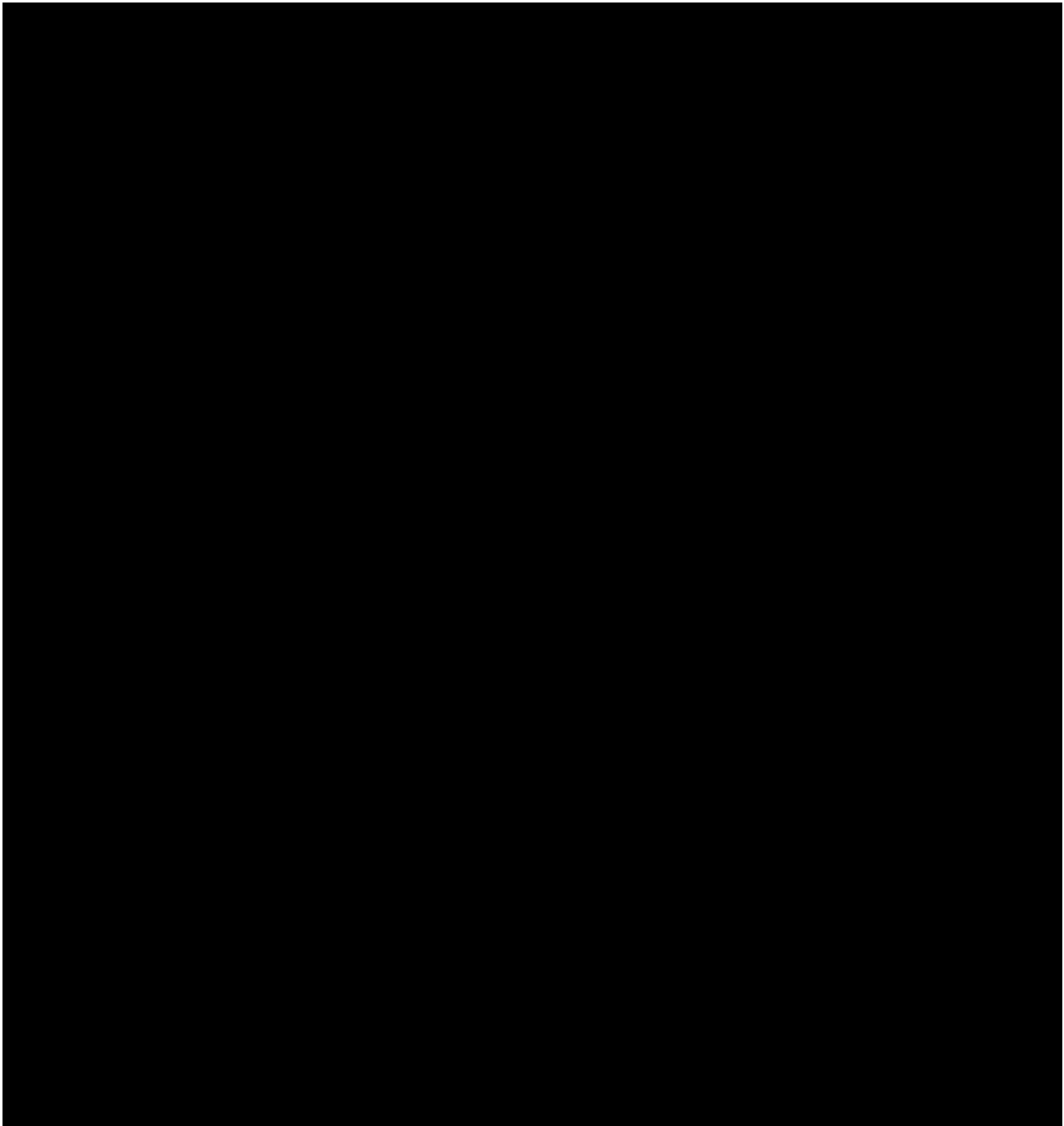


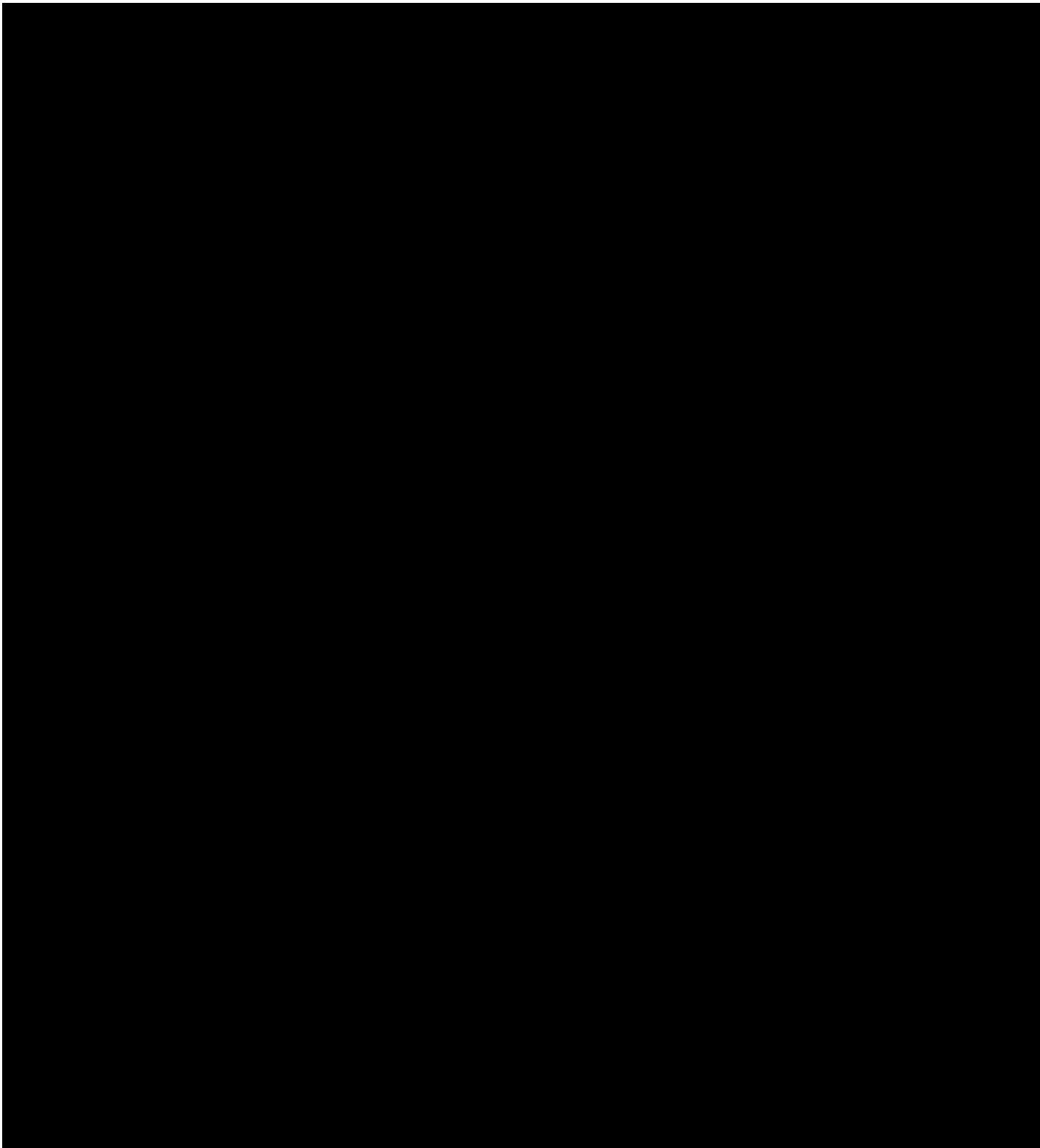


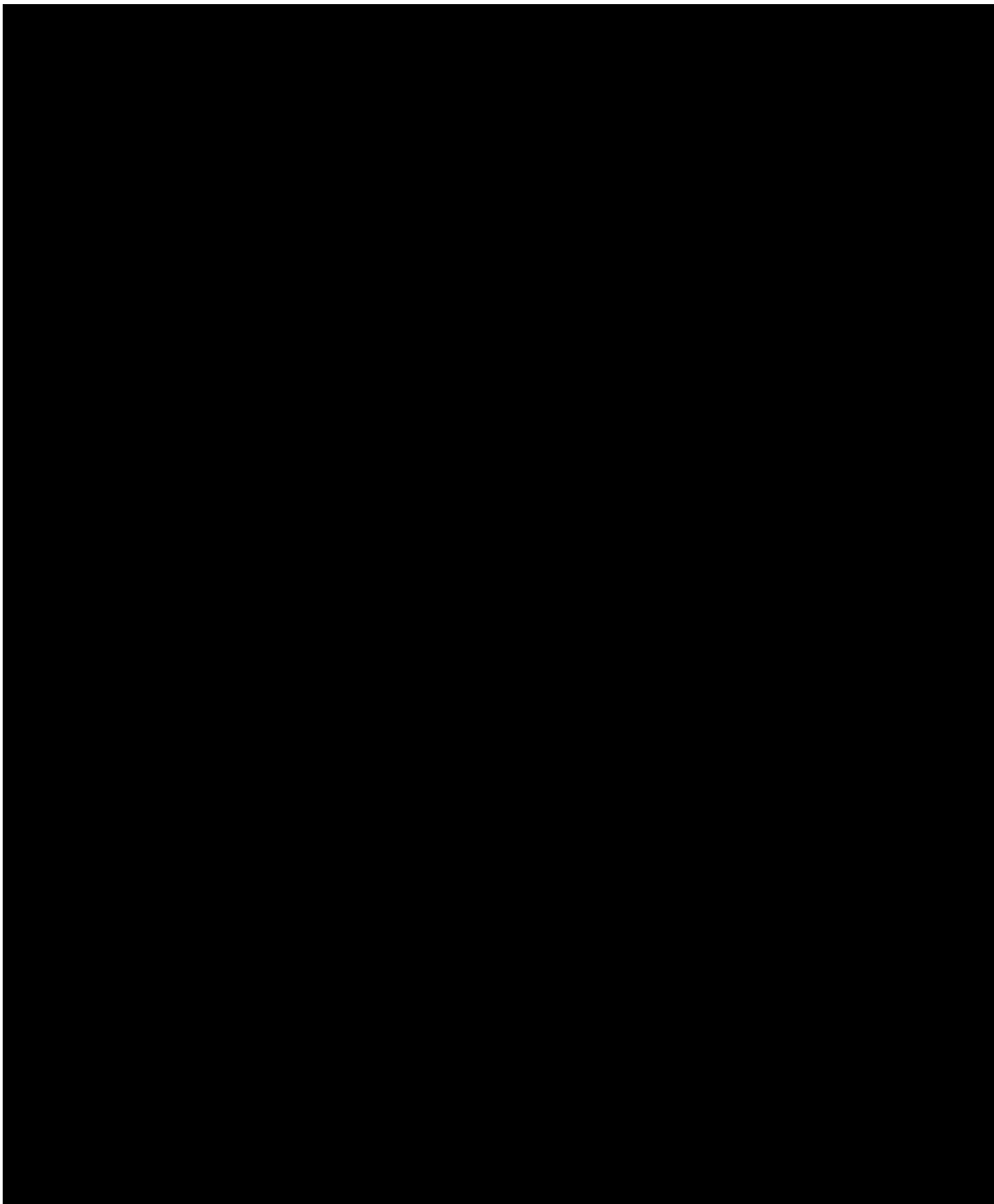


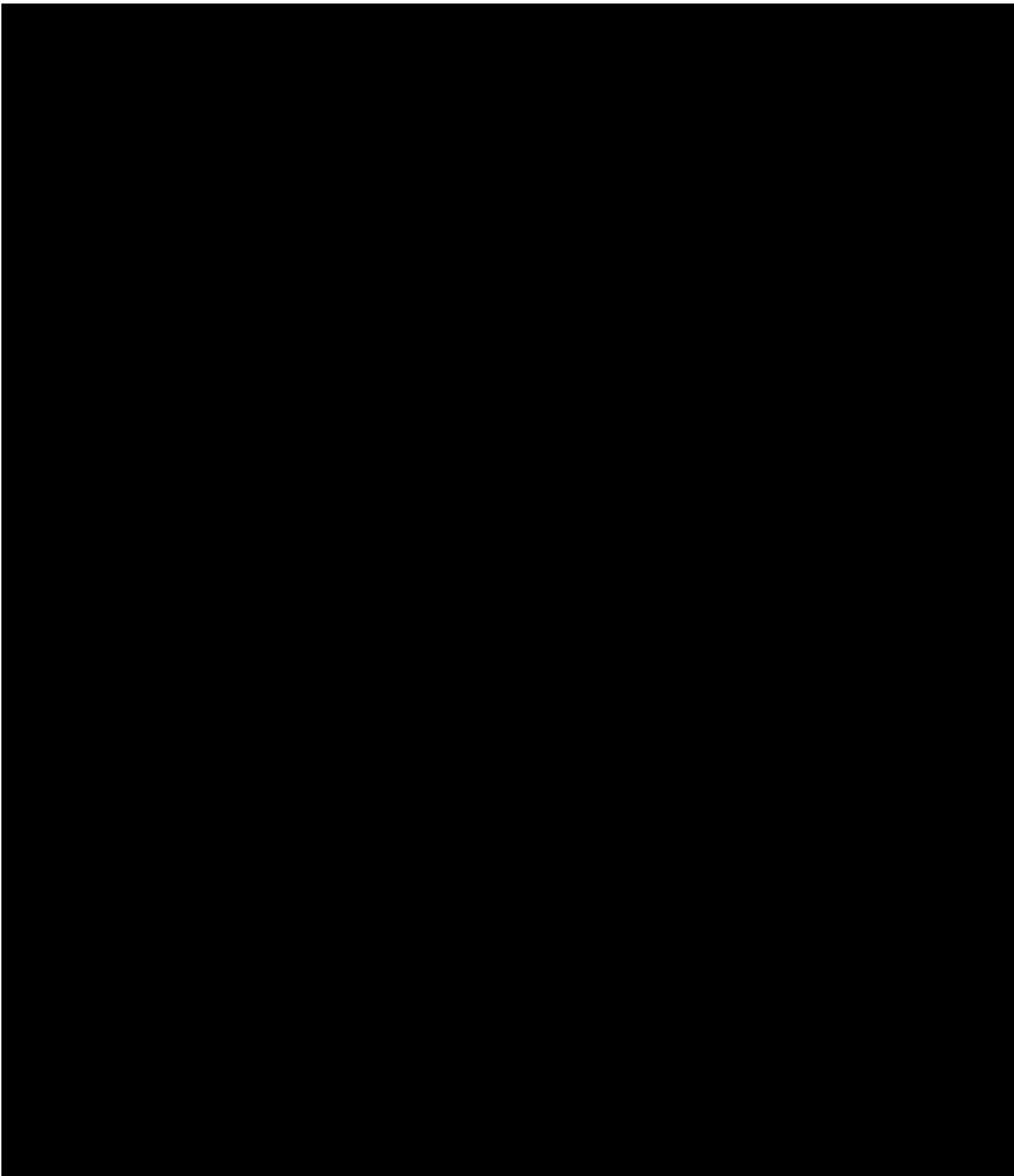




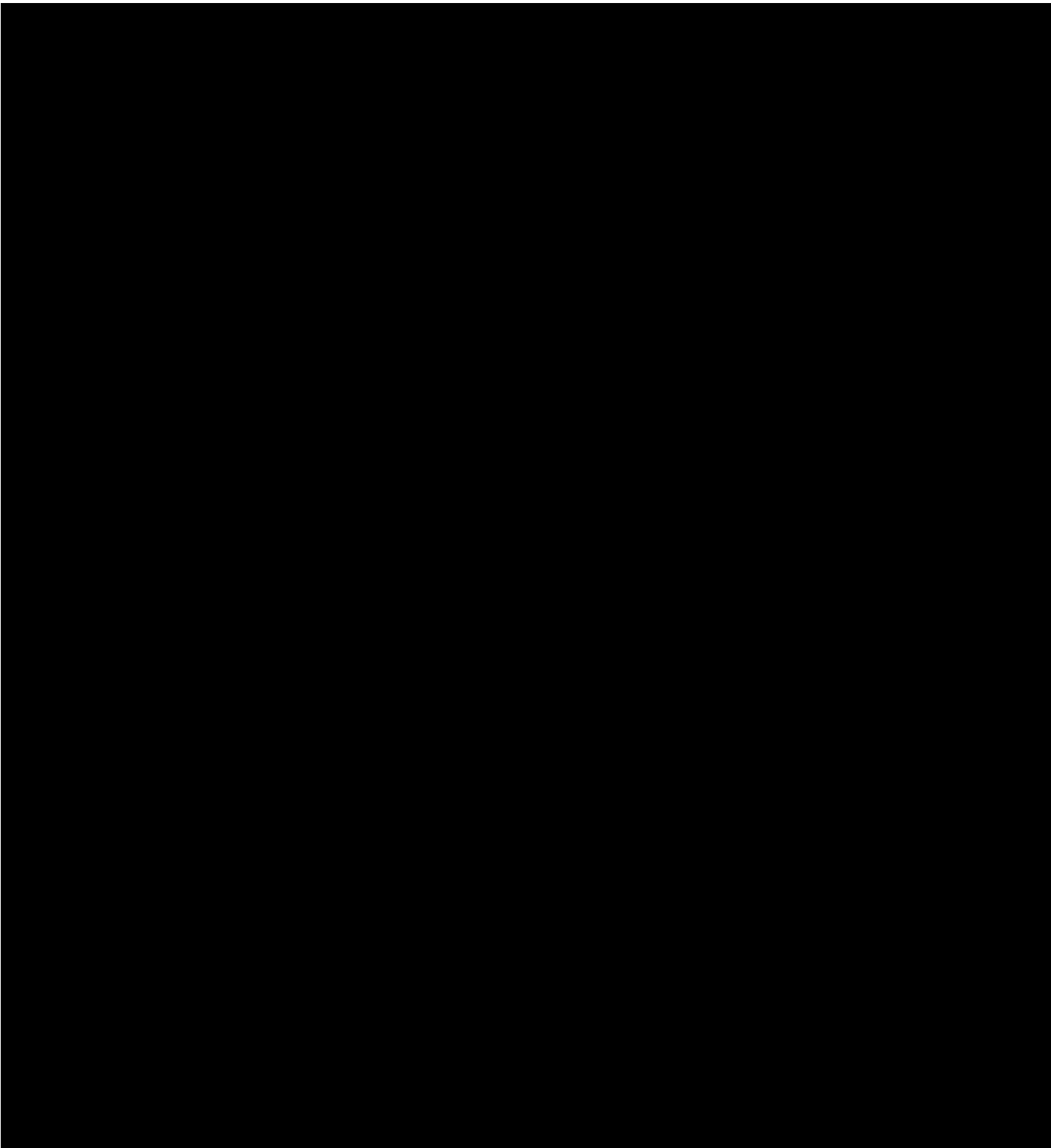


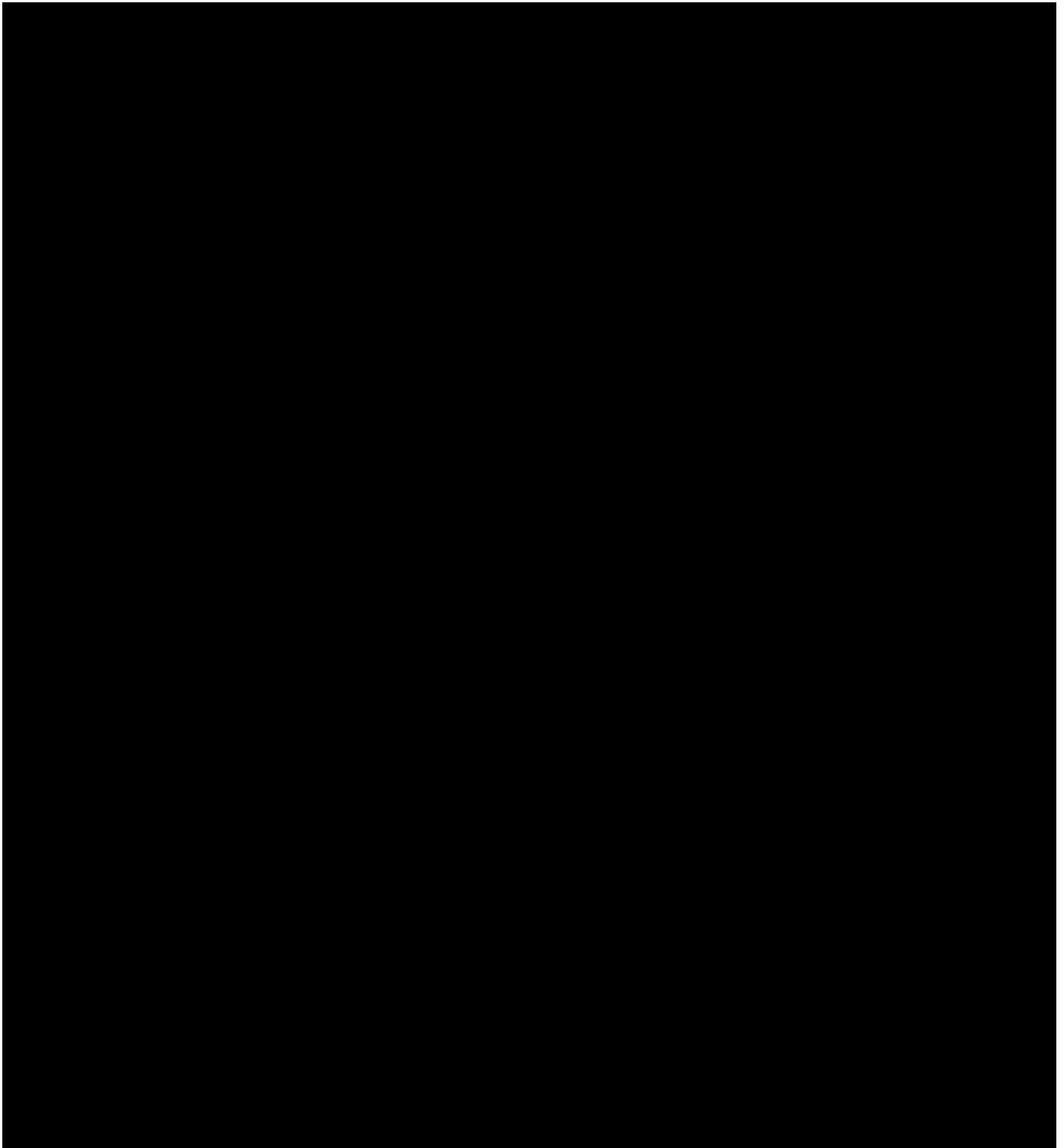


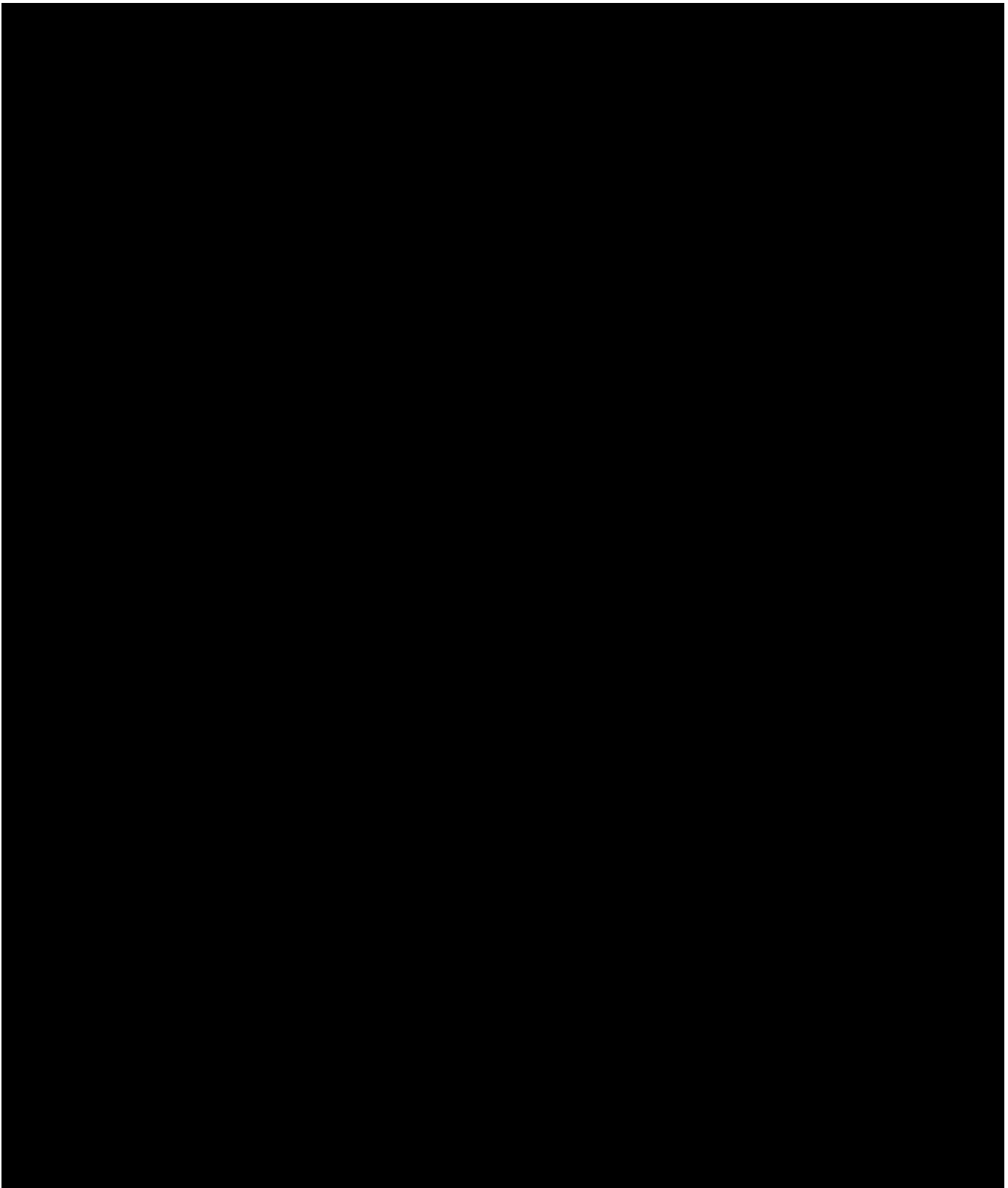


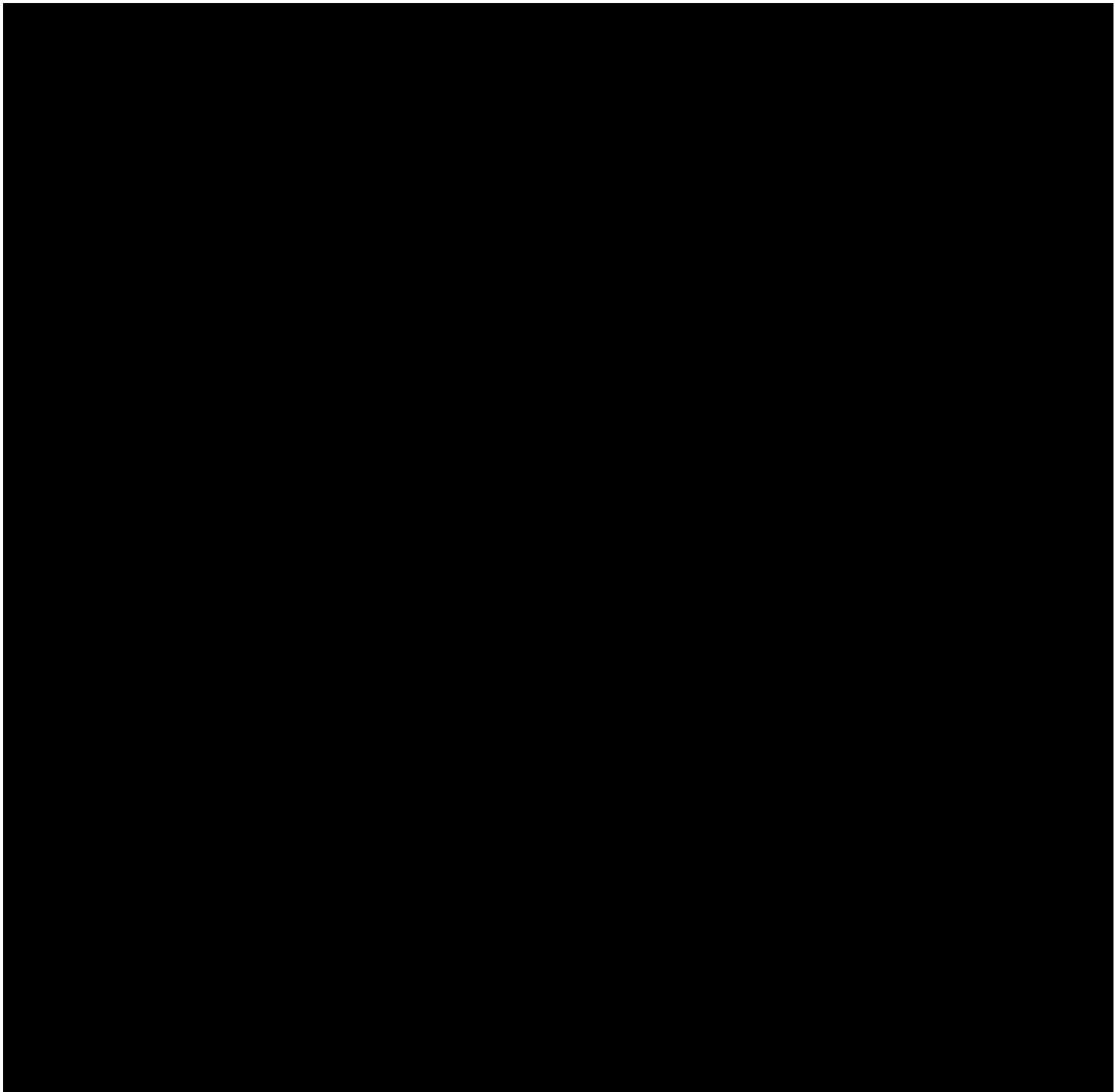


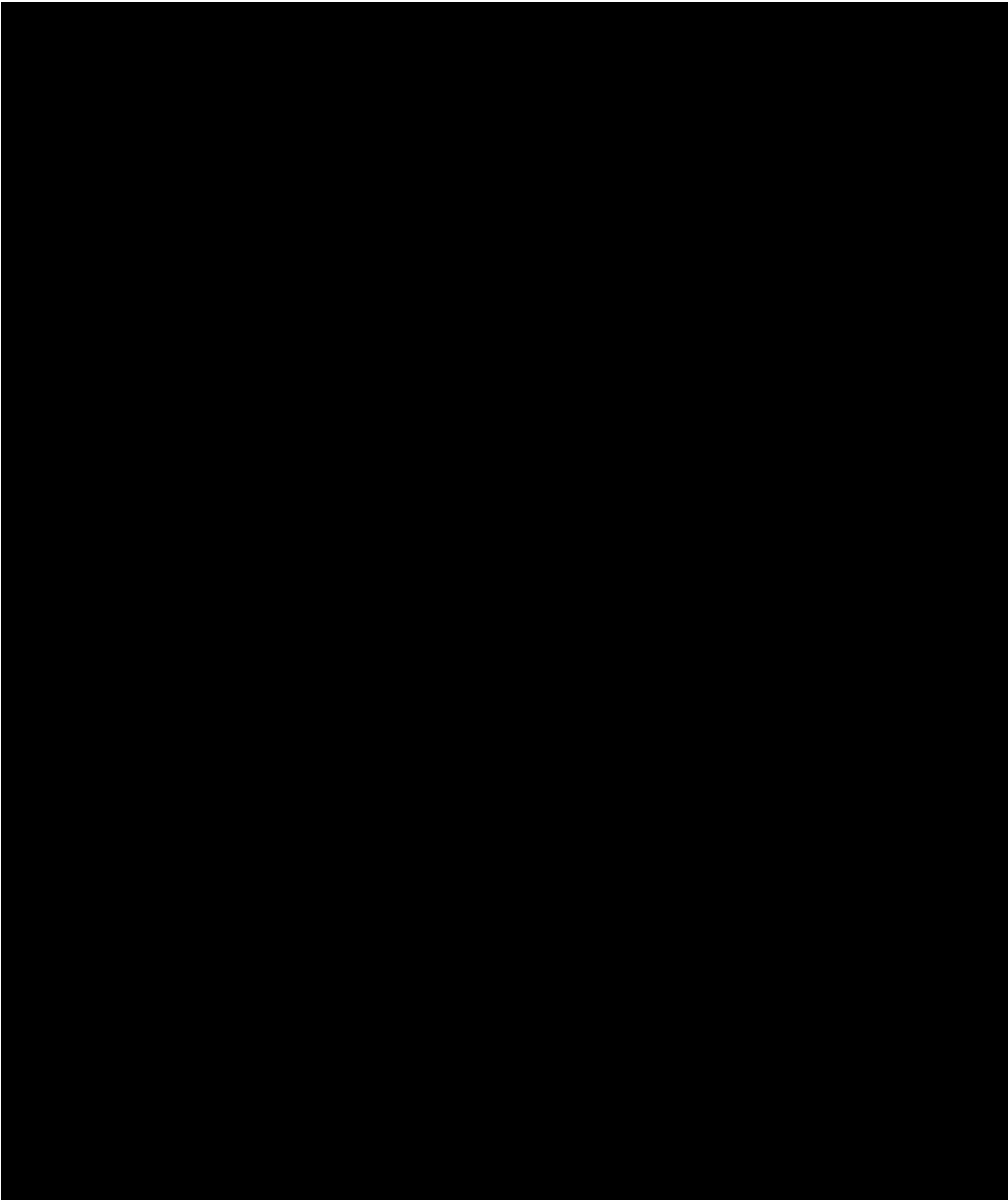












**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

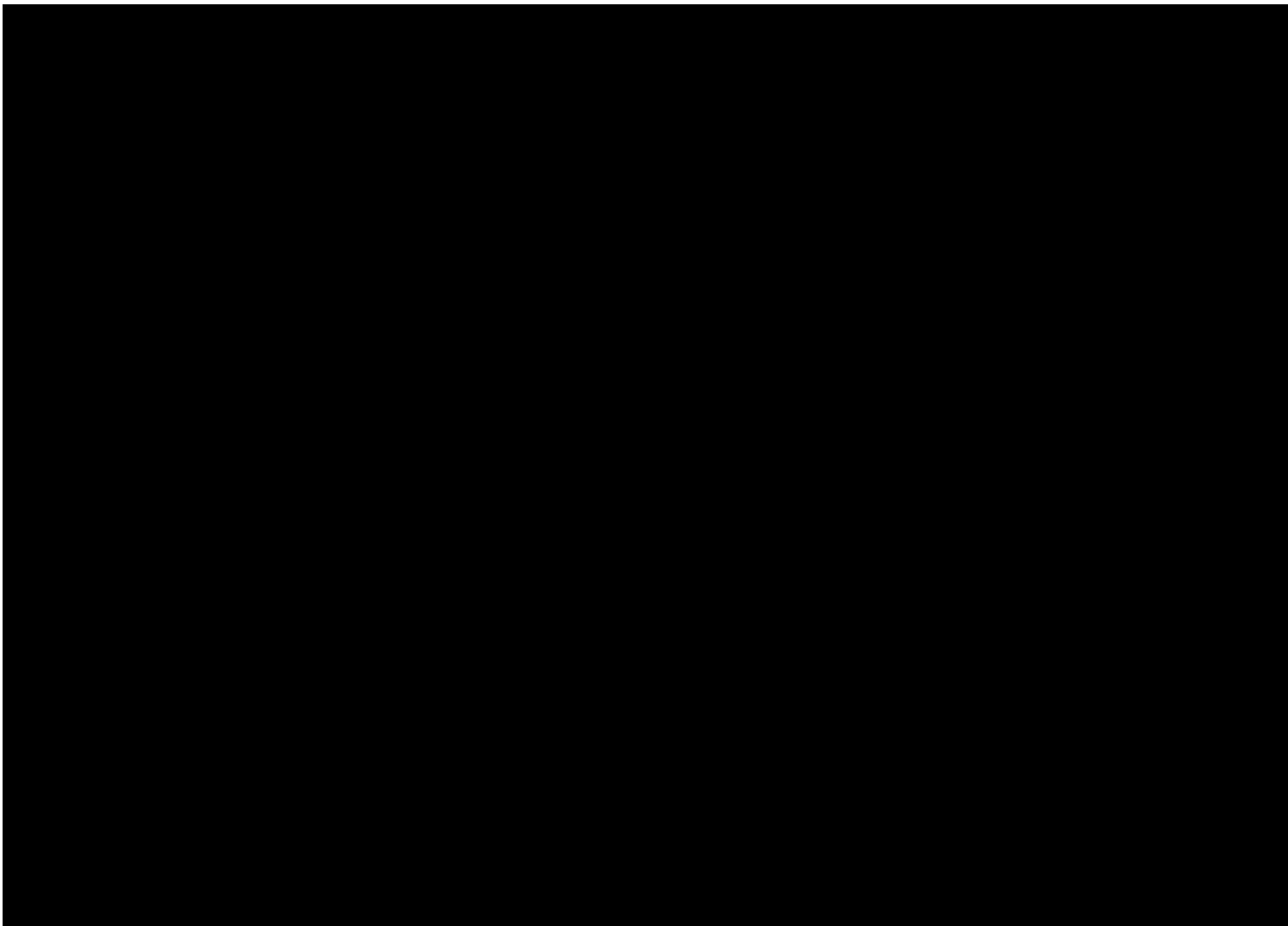
For the mark COHIBA

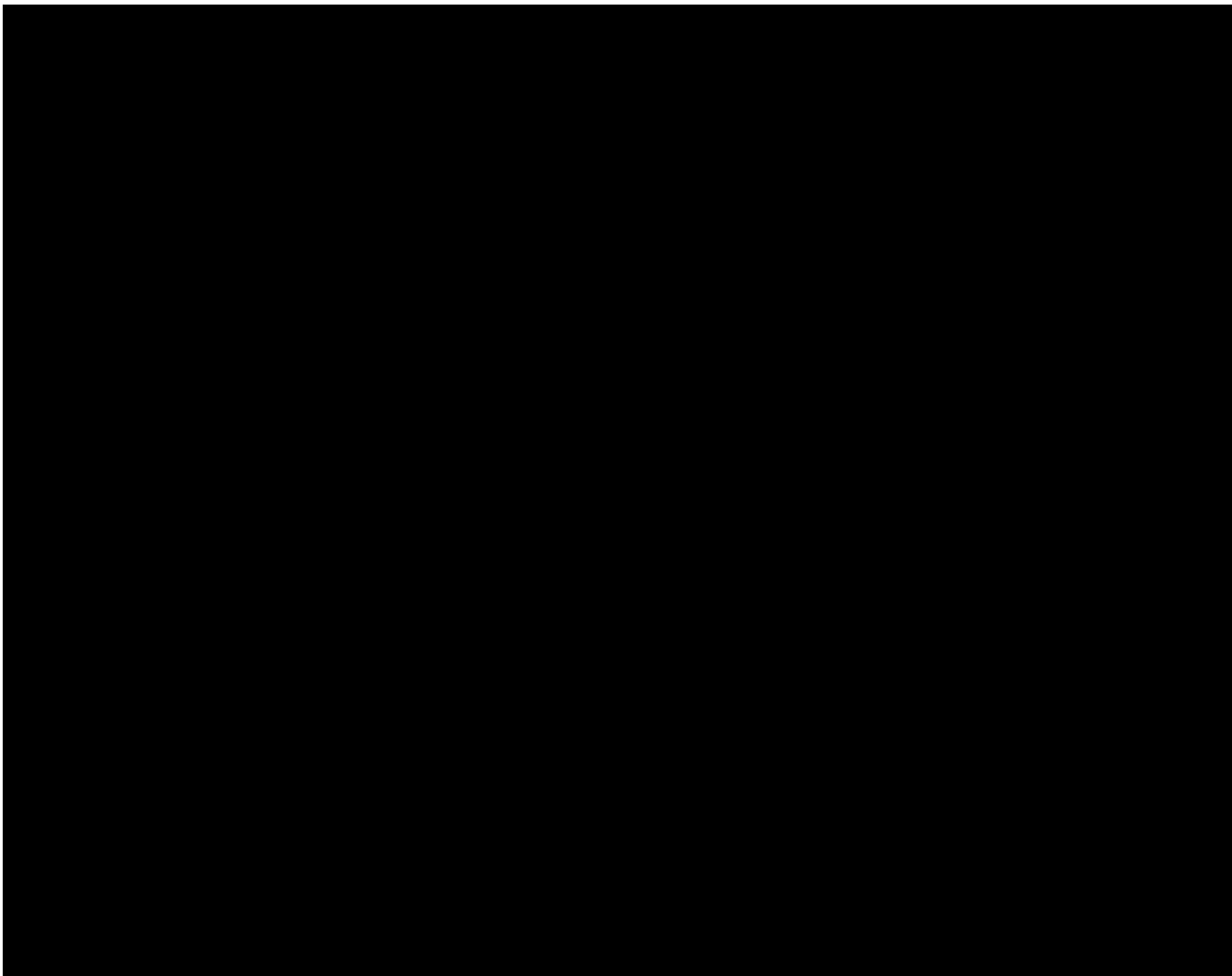
Date registered: June 6, 1995

-----		X
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----		X

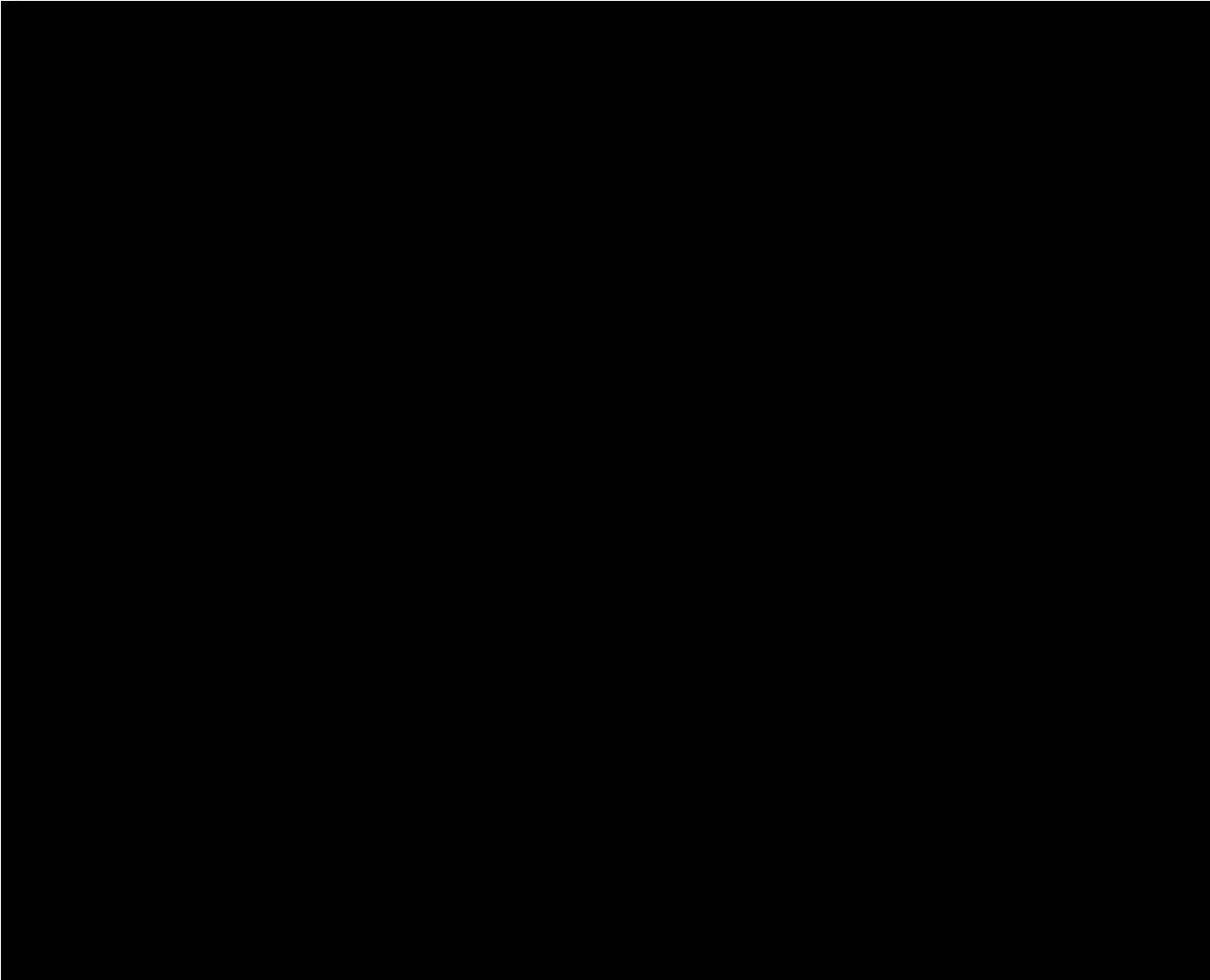
PARTY OFFERING: PETITIONER

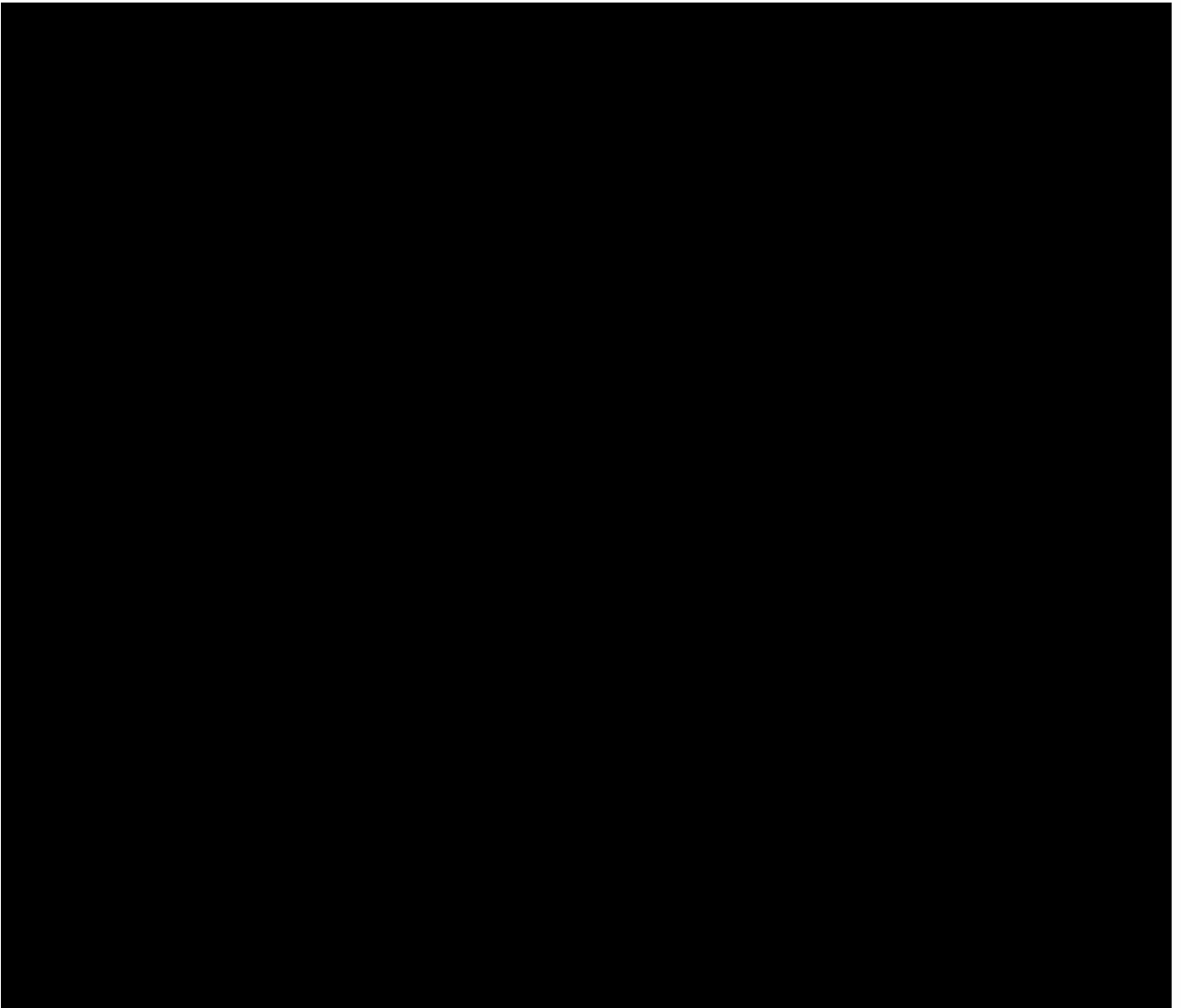
**Exhibit 3 to the TTAB Discovery Deposition Transcript of  
Augustin Martinez, III, dated September 28, 2017**

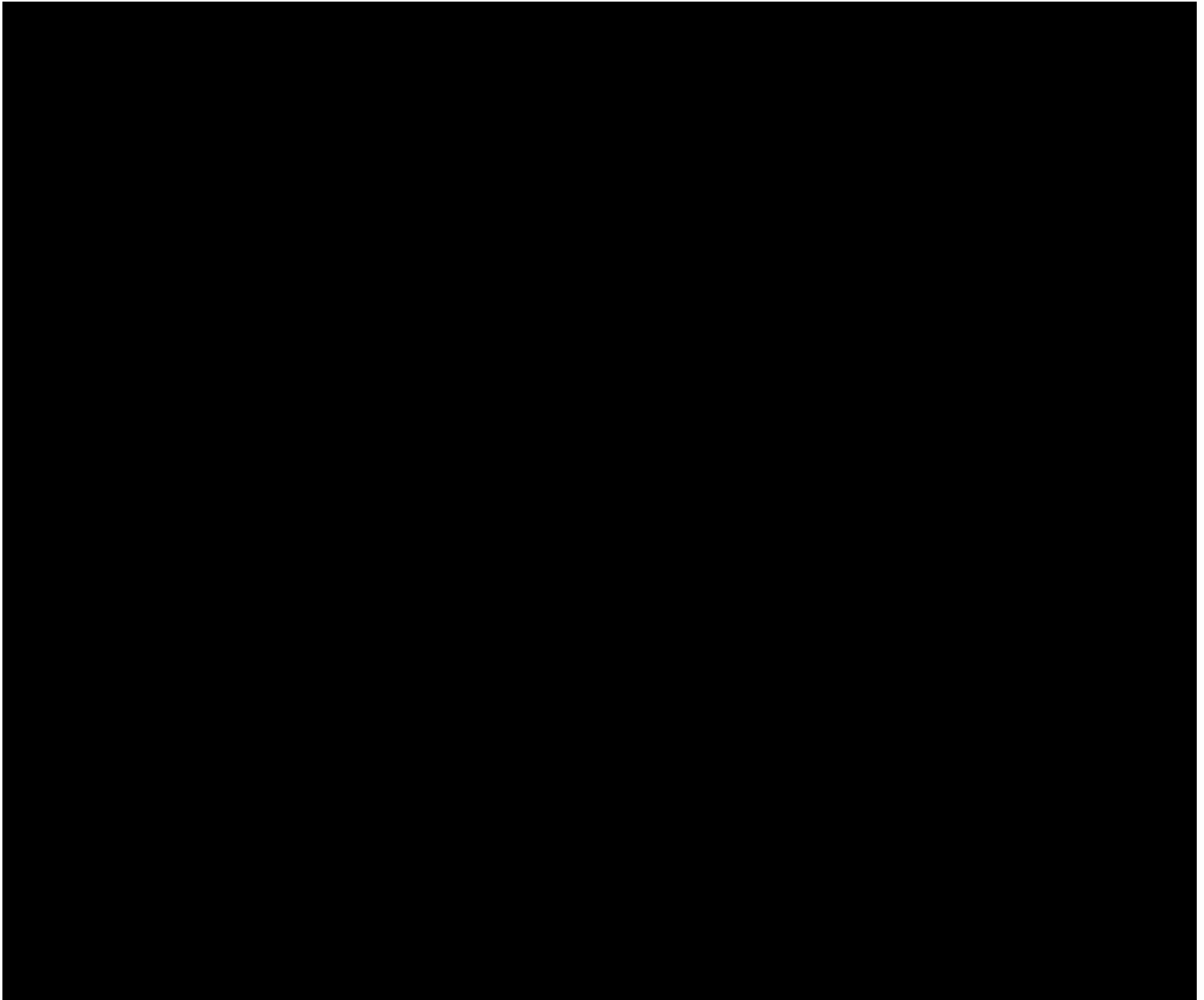




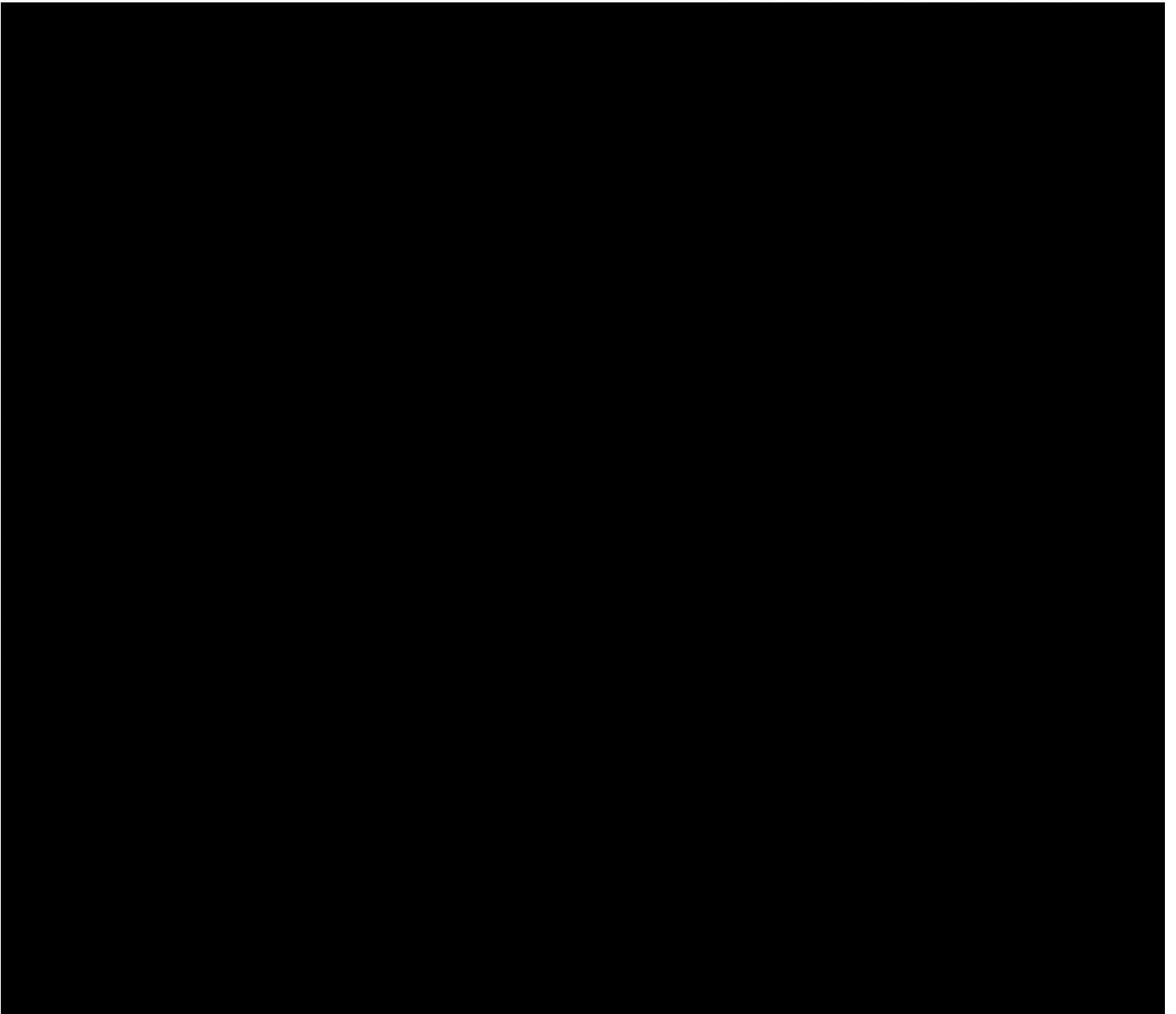


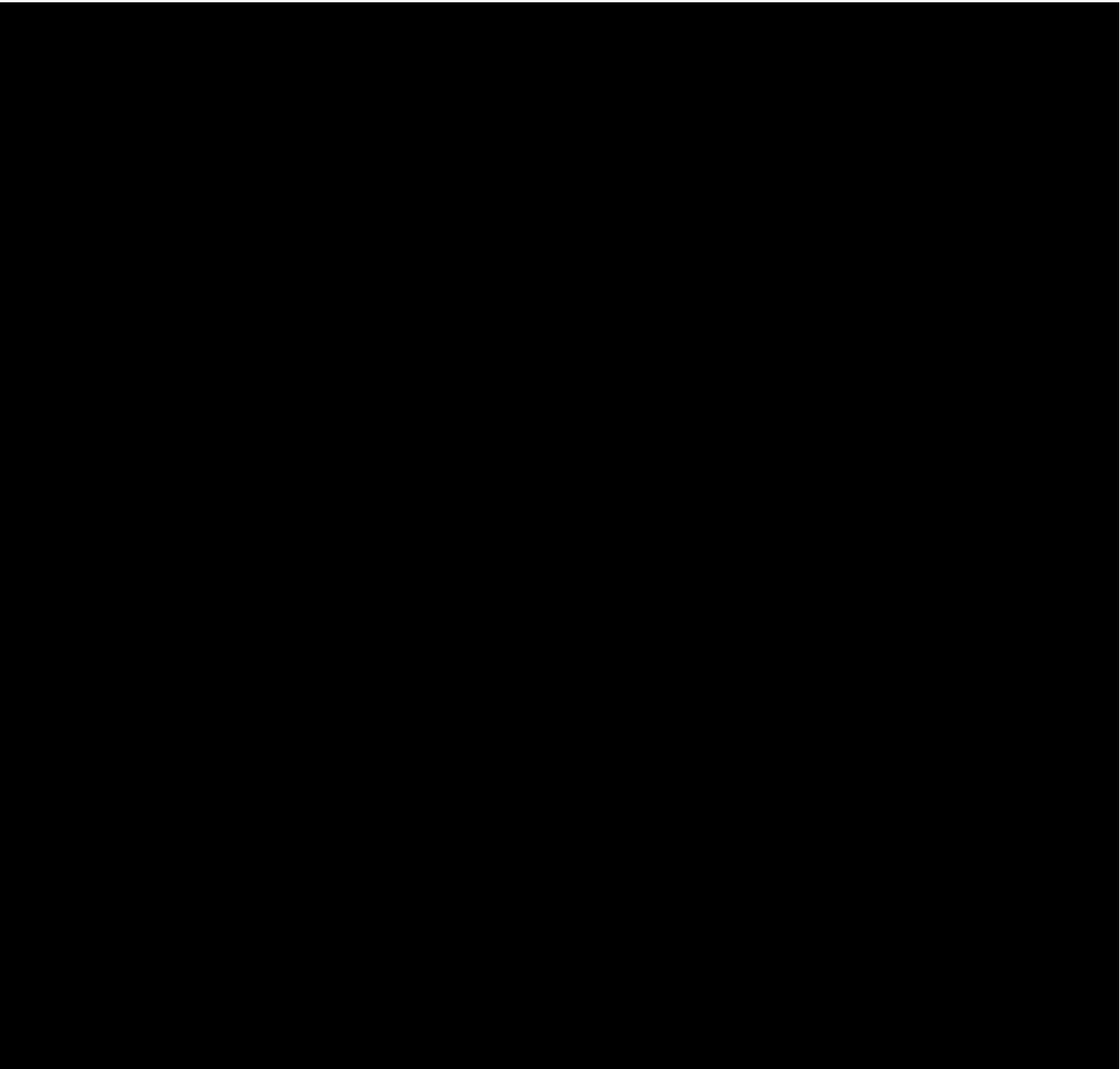


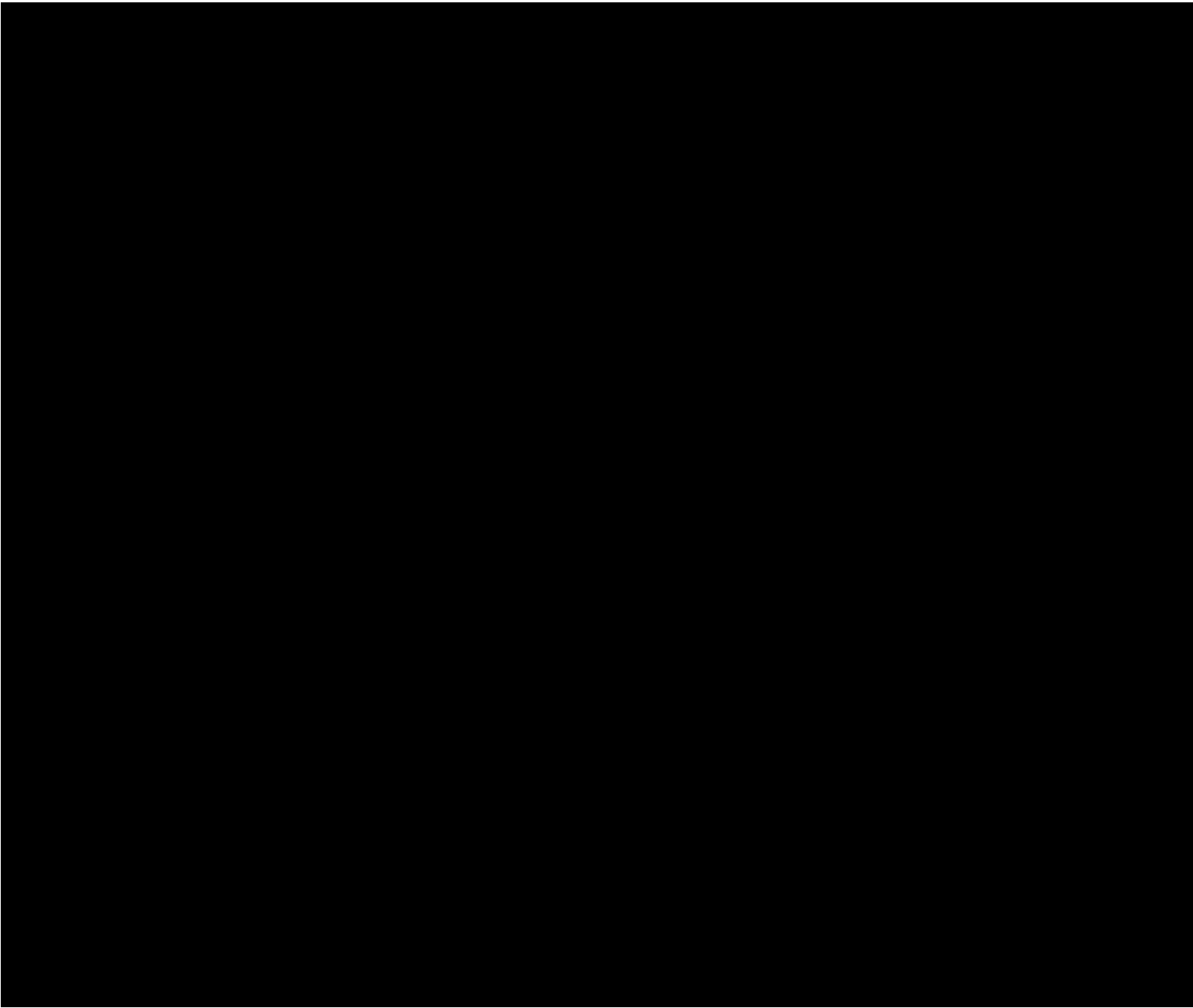


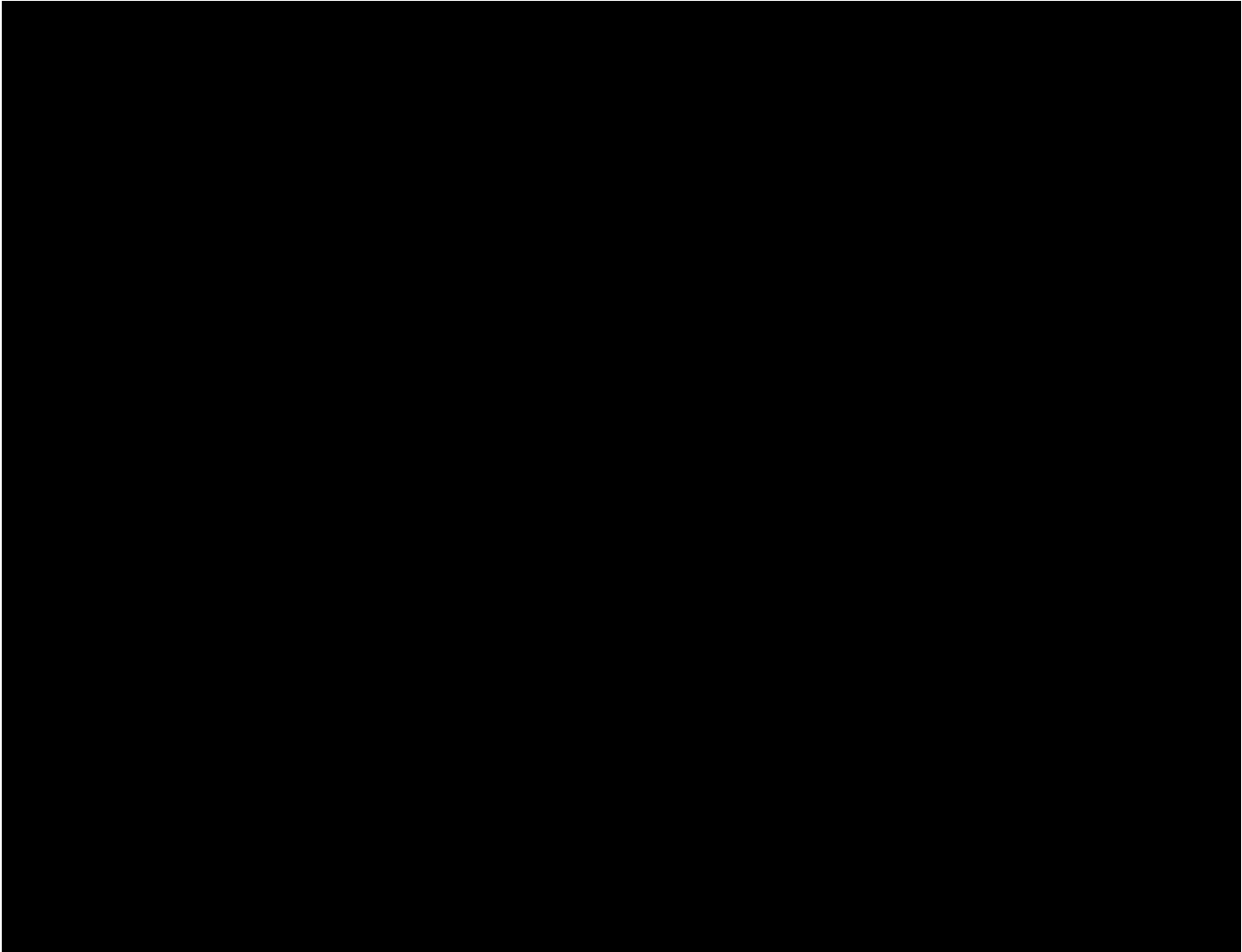




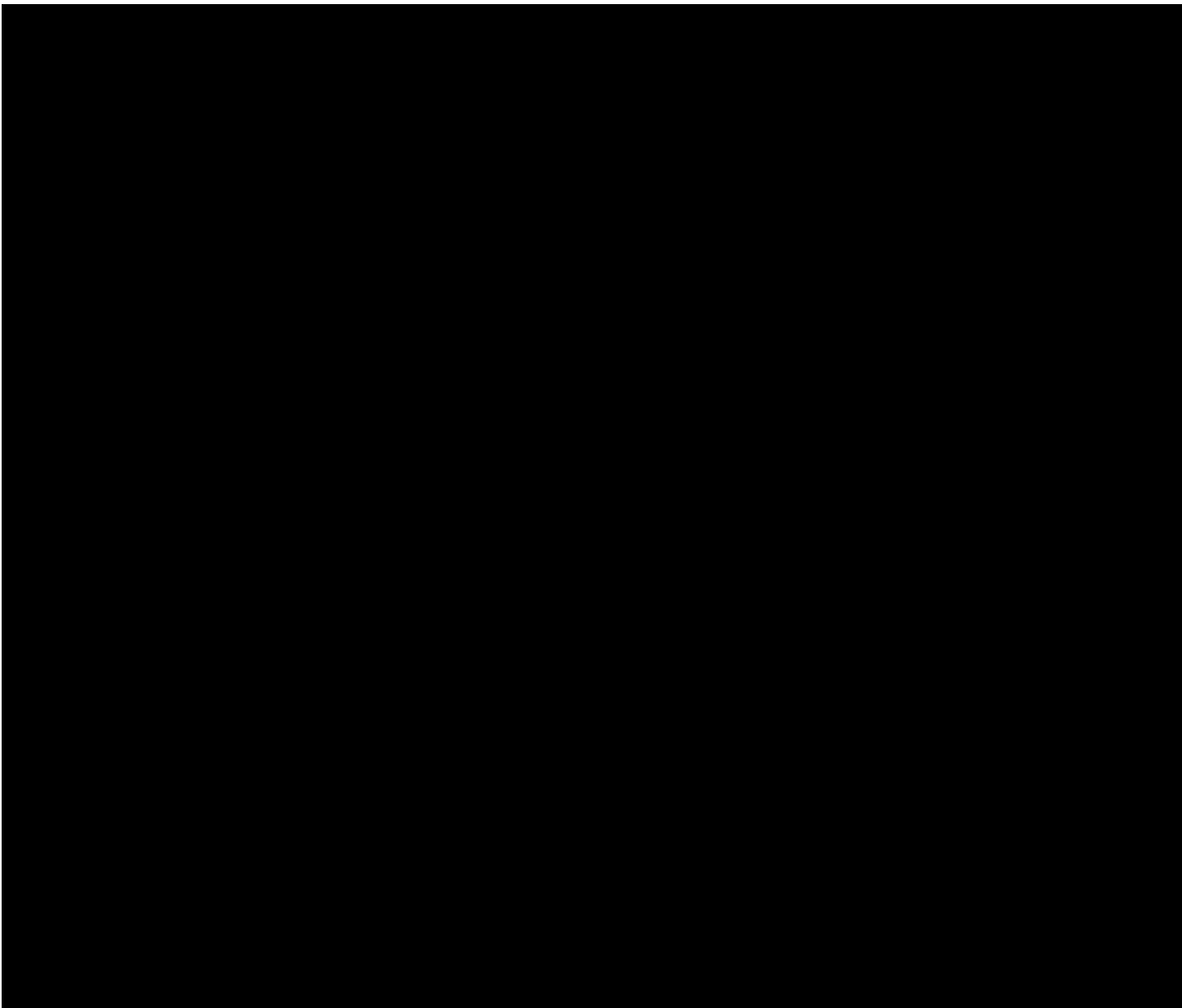


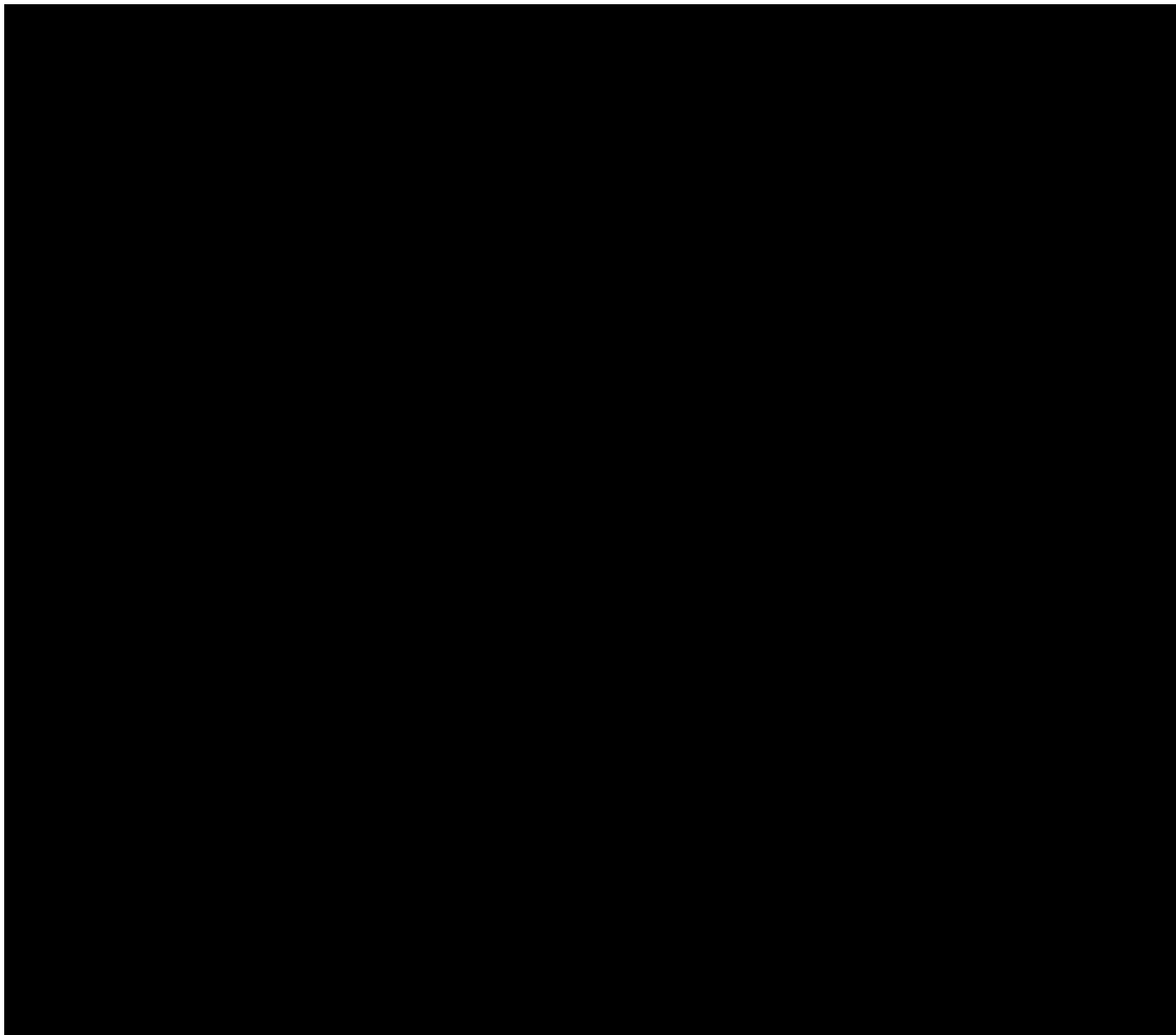


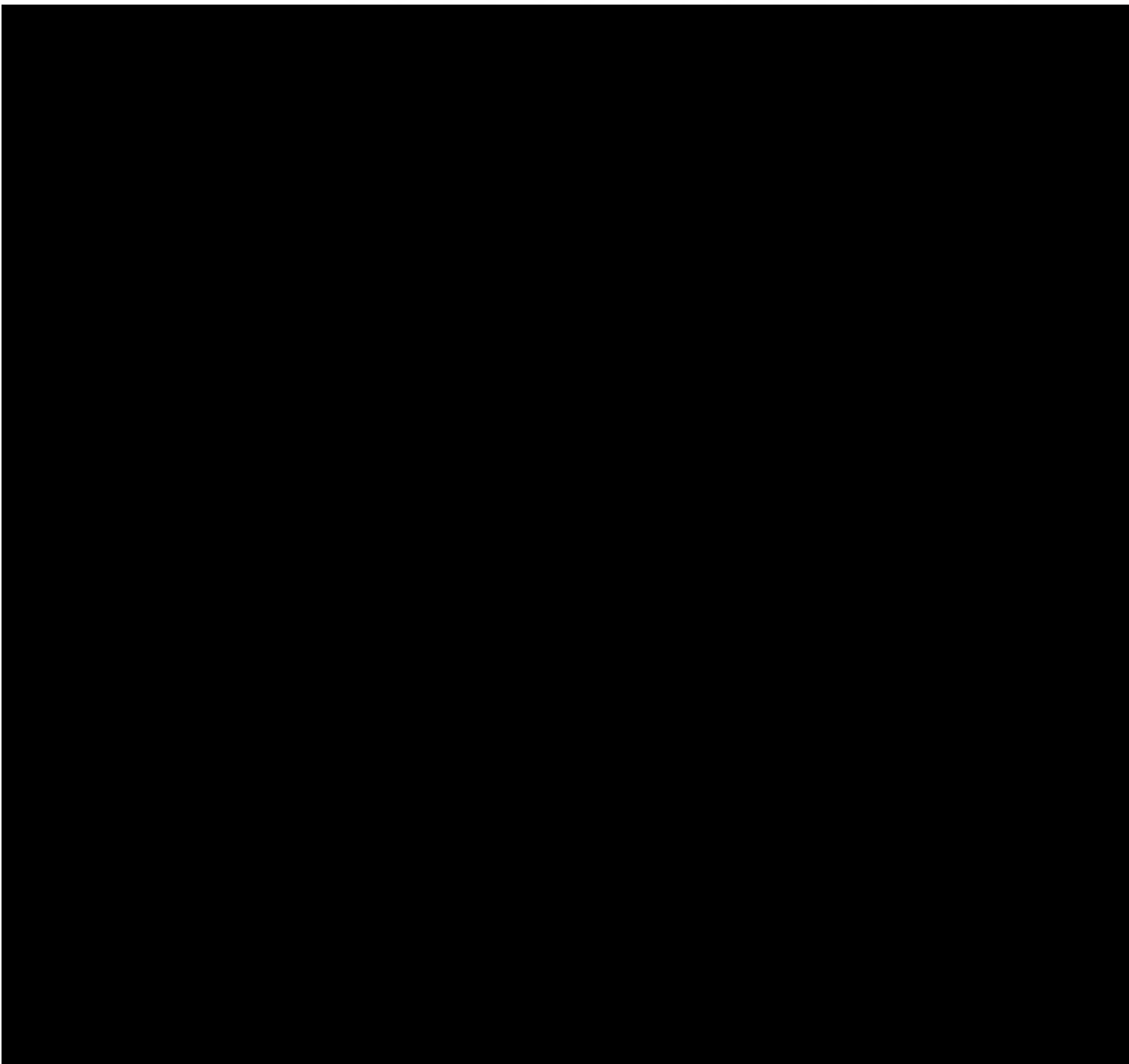


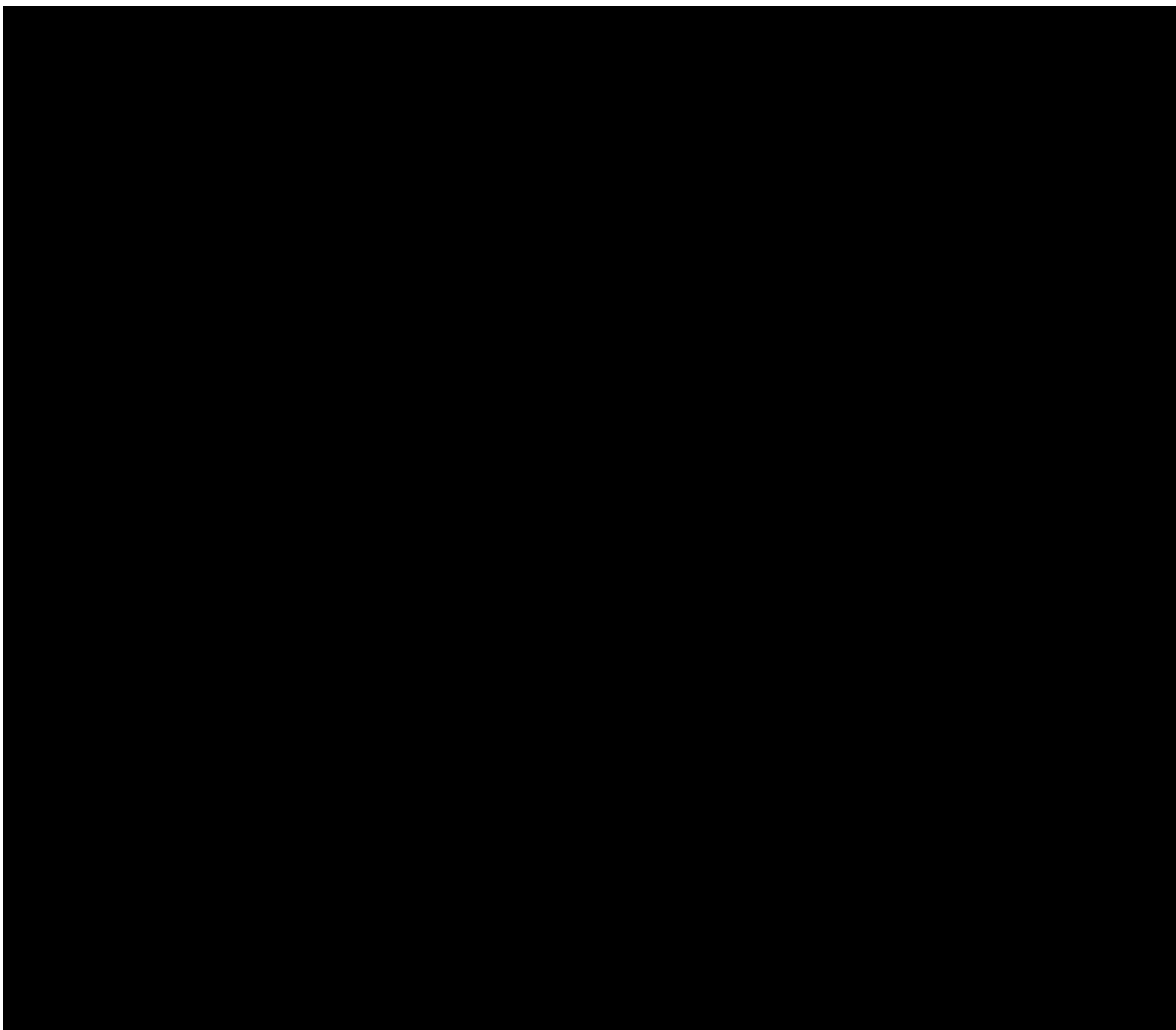


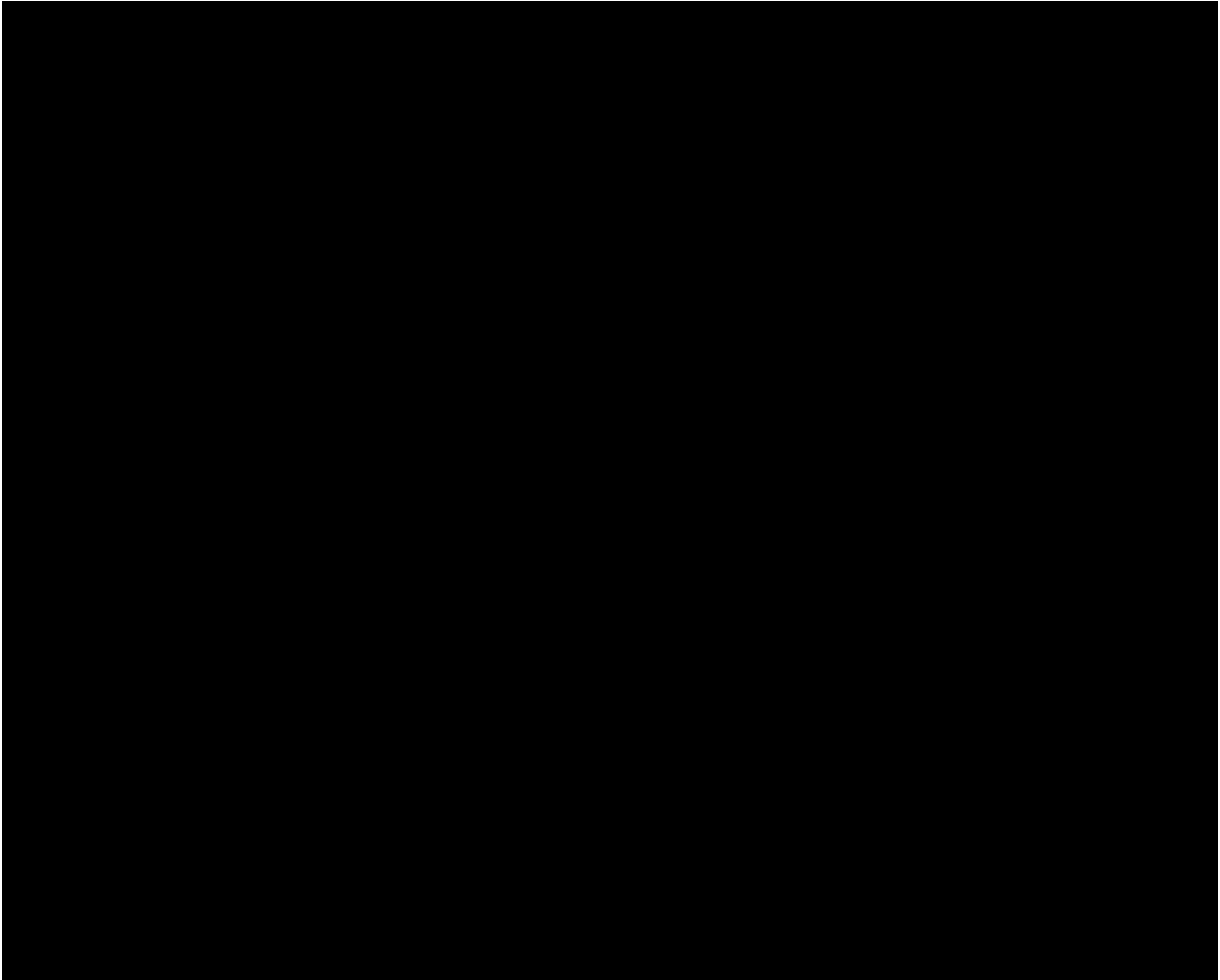




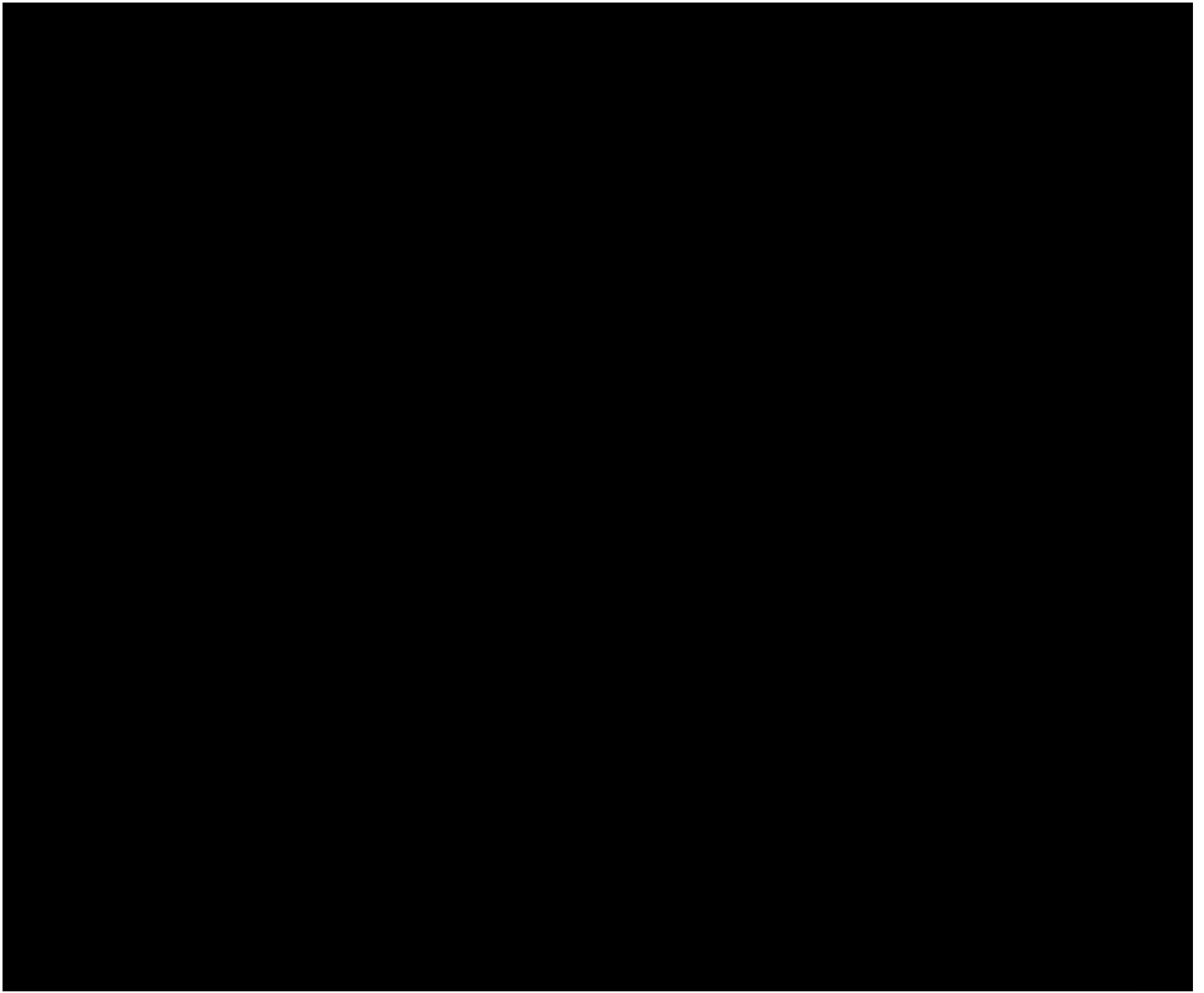






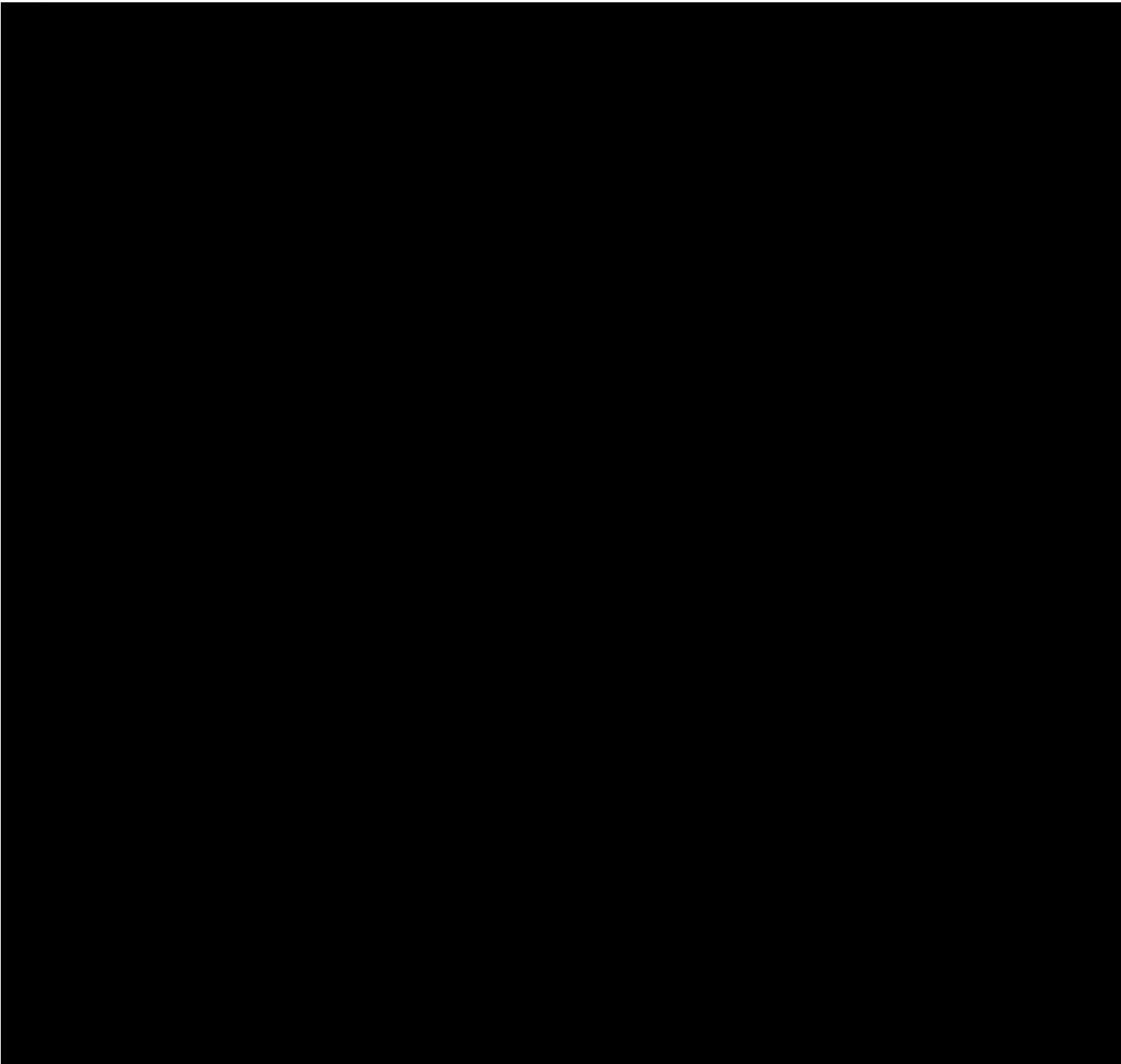












**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

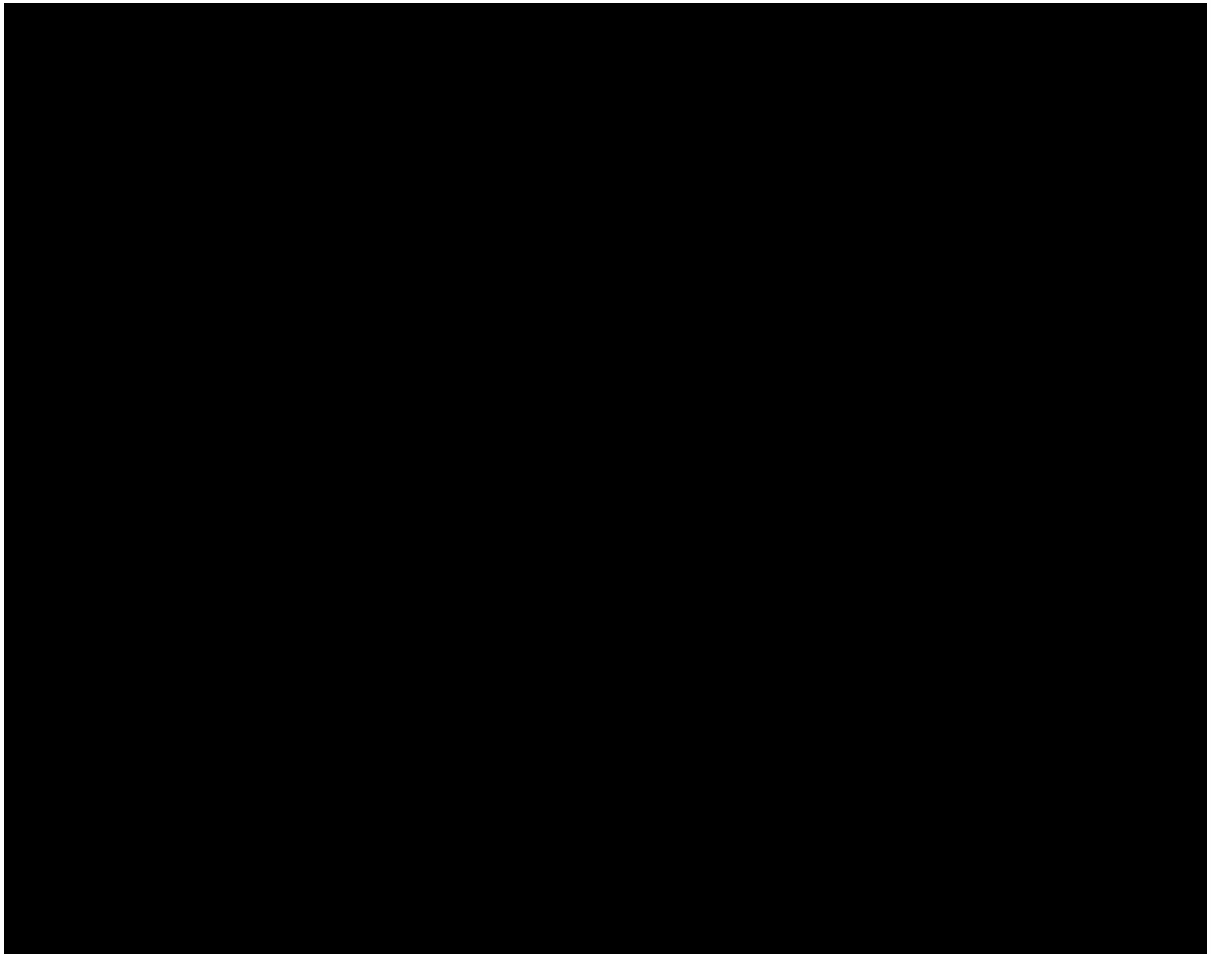
For the mark COHIBA

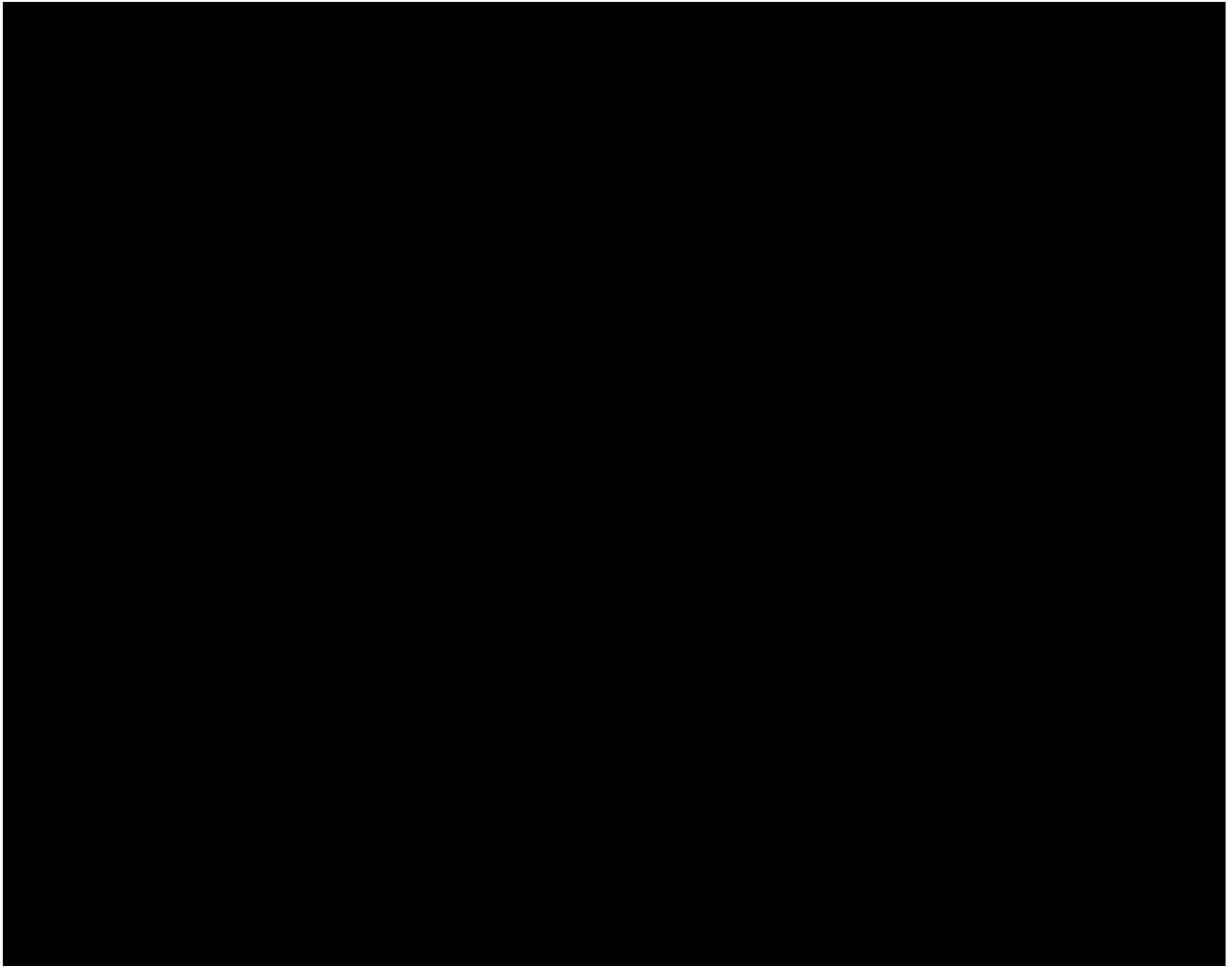
Date registered: June 6, 1995

-----	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----	X	

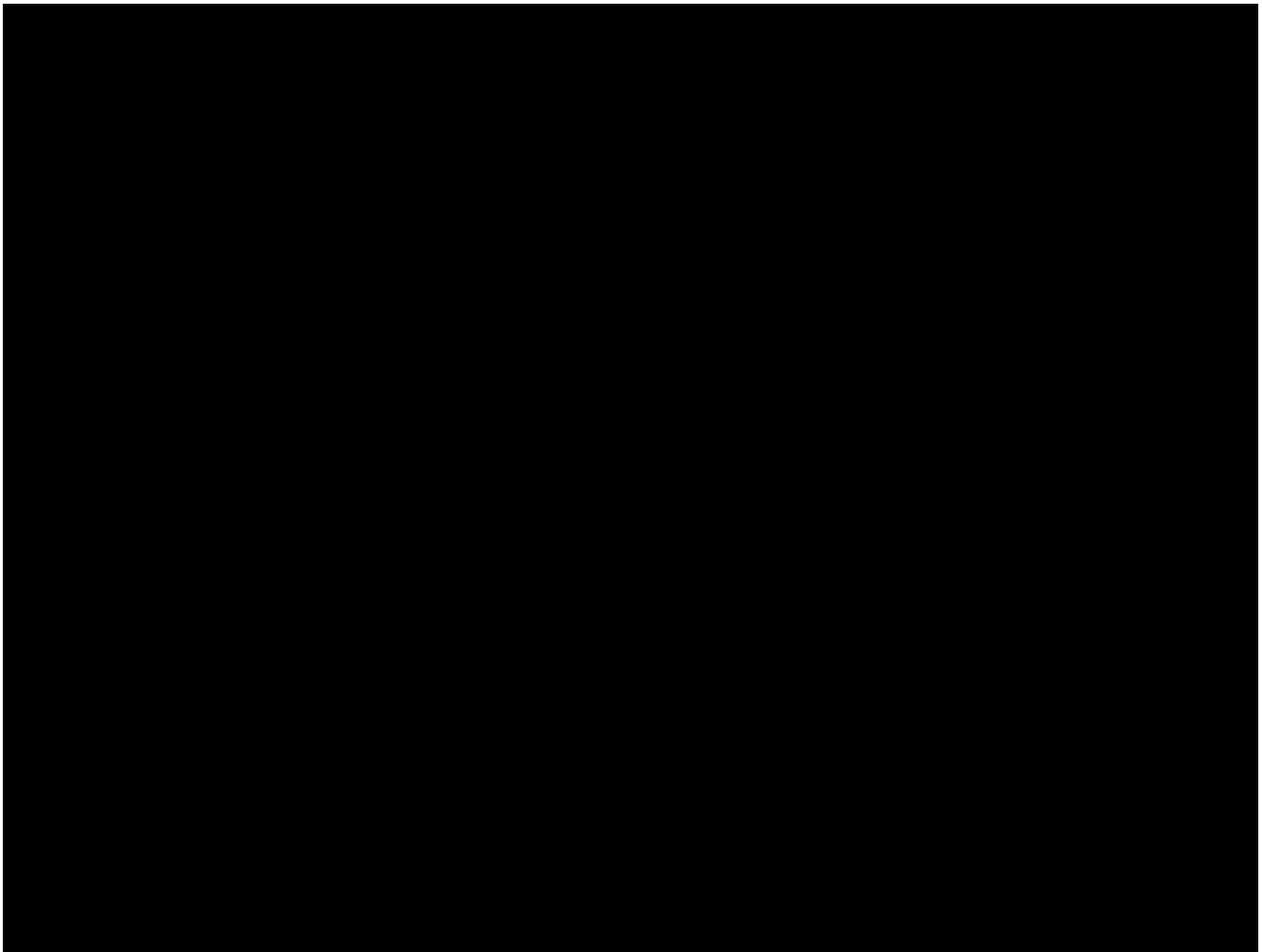
PARTY OFFERING: PETITIONER

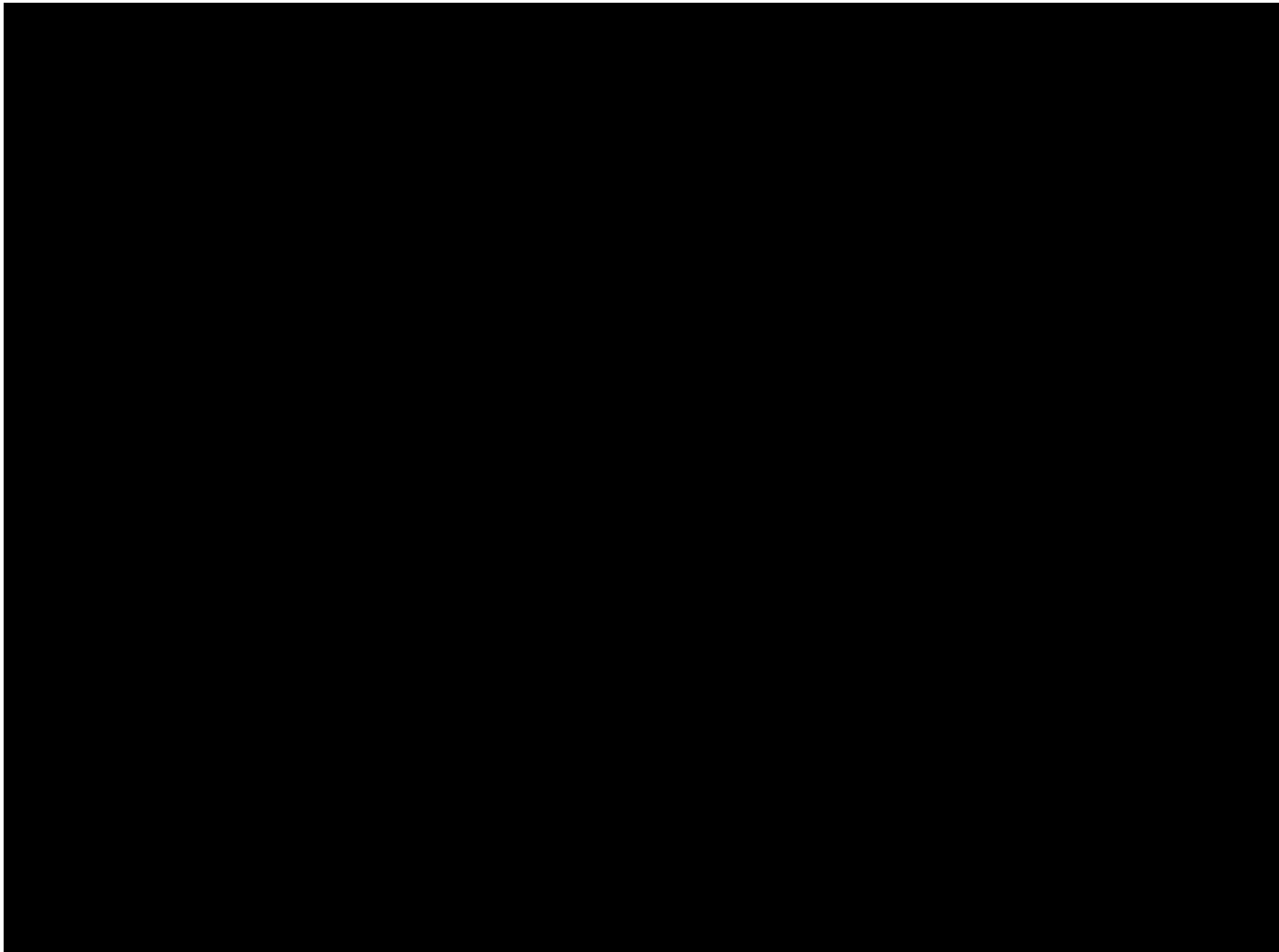
**Exhibit 4 to the TTAB Discovery Deposition Transcript of  
Augustin Martinez, III, dated September 28, 2017**

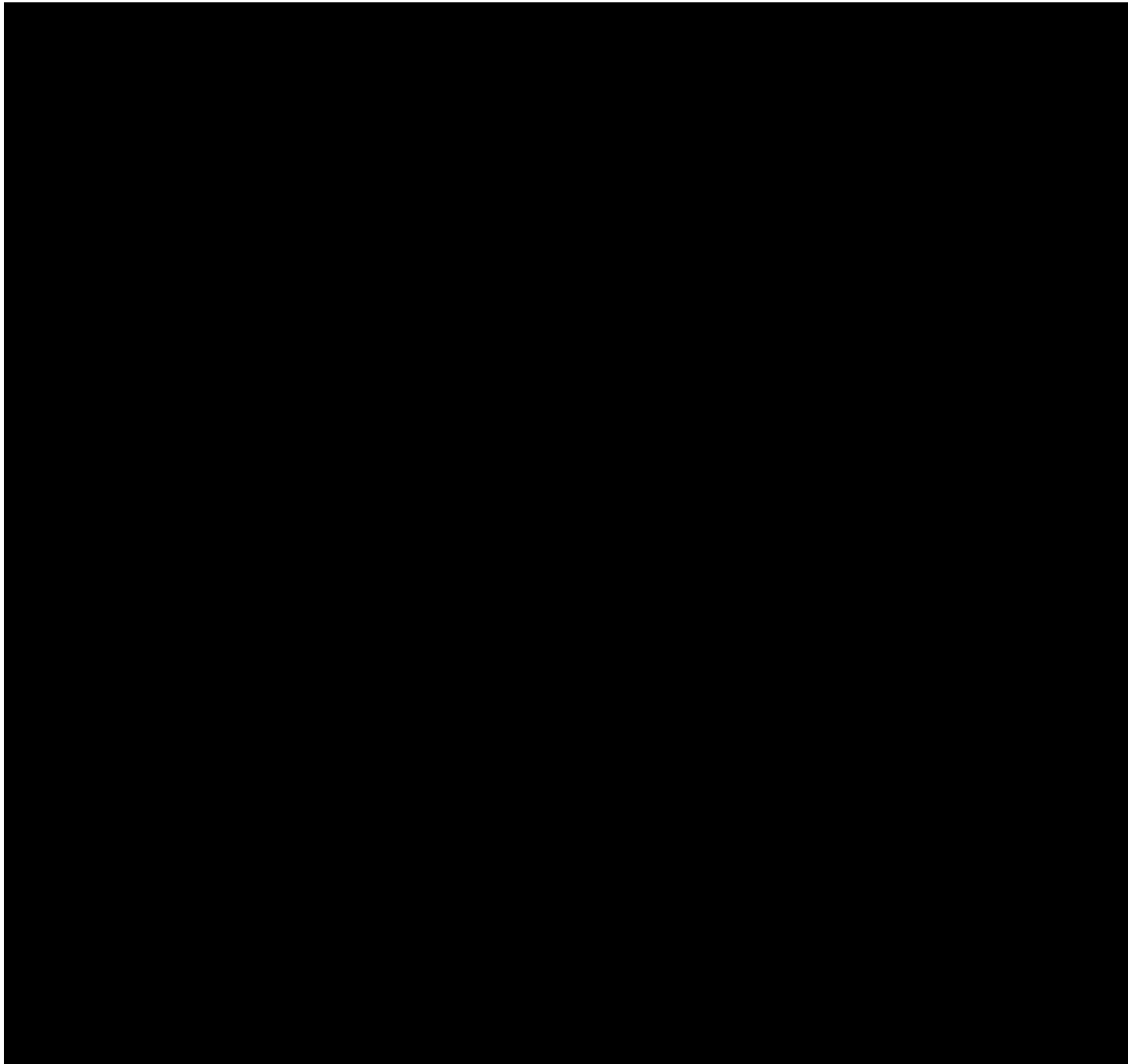




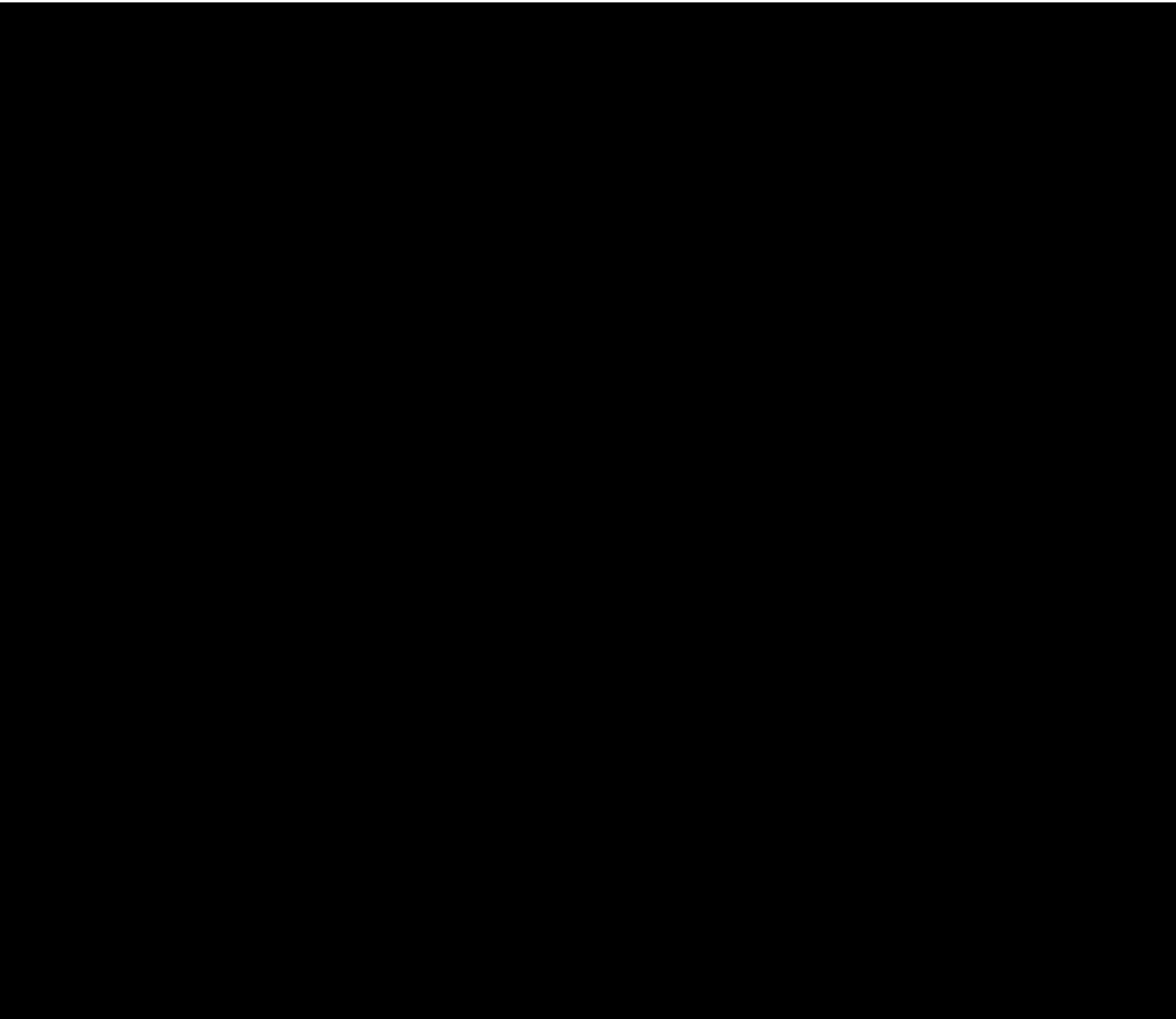


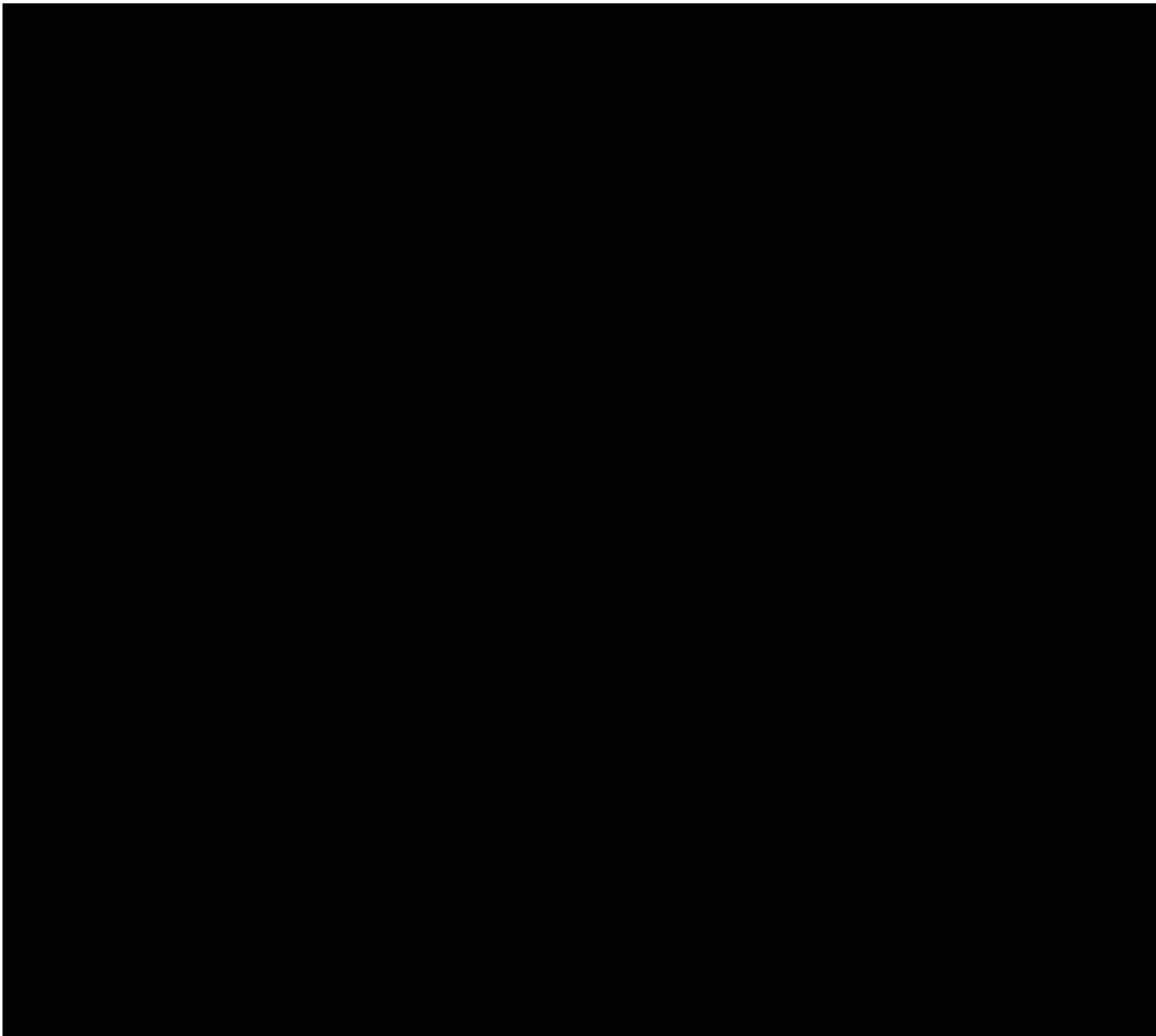


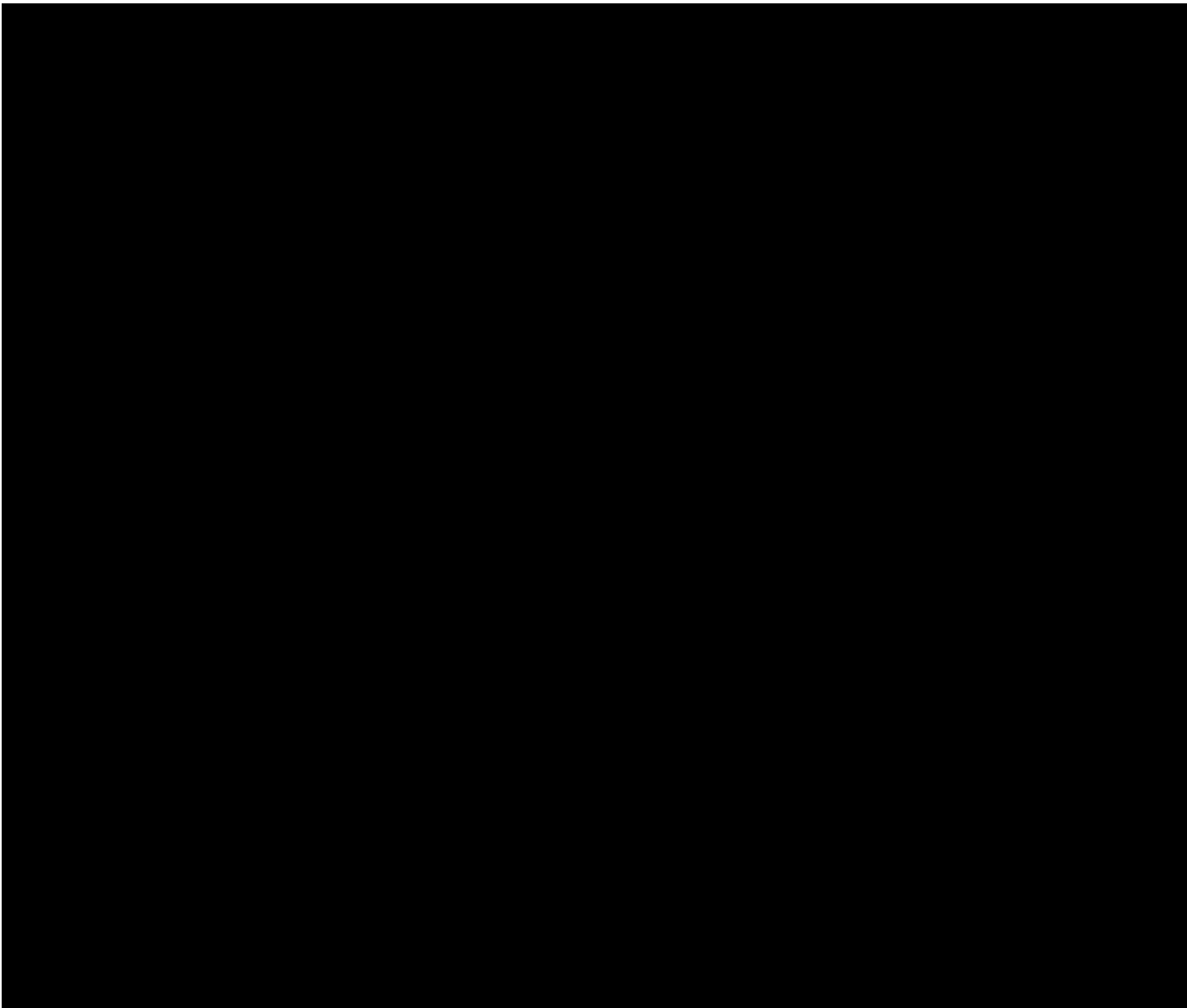


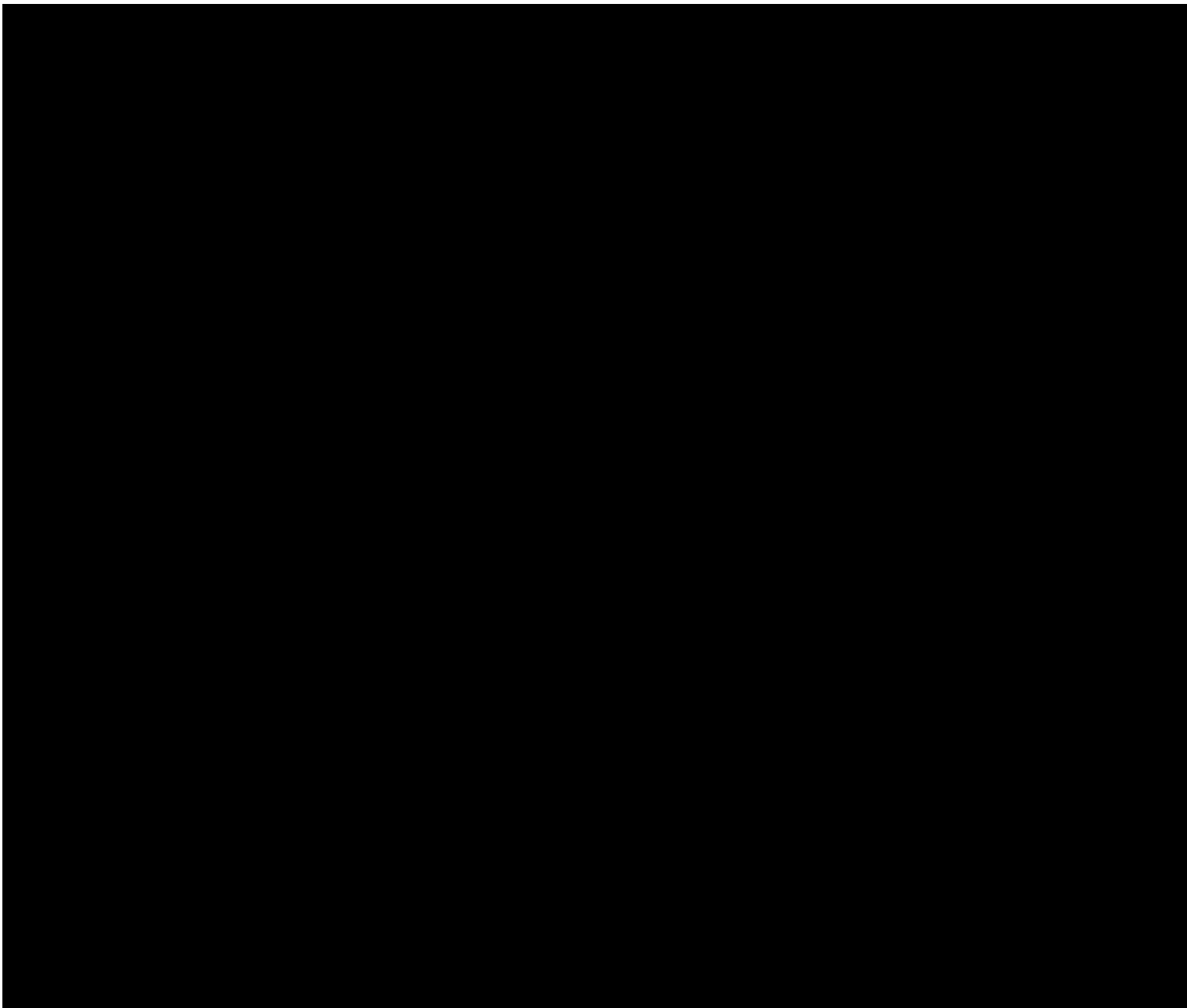


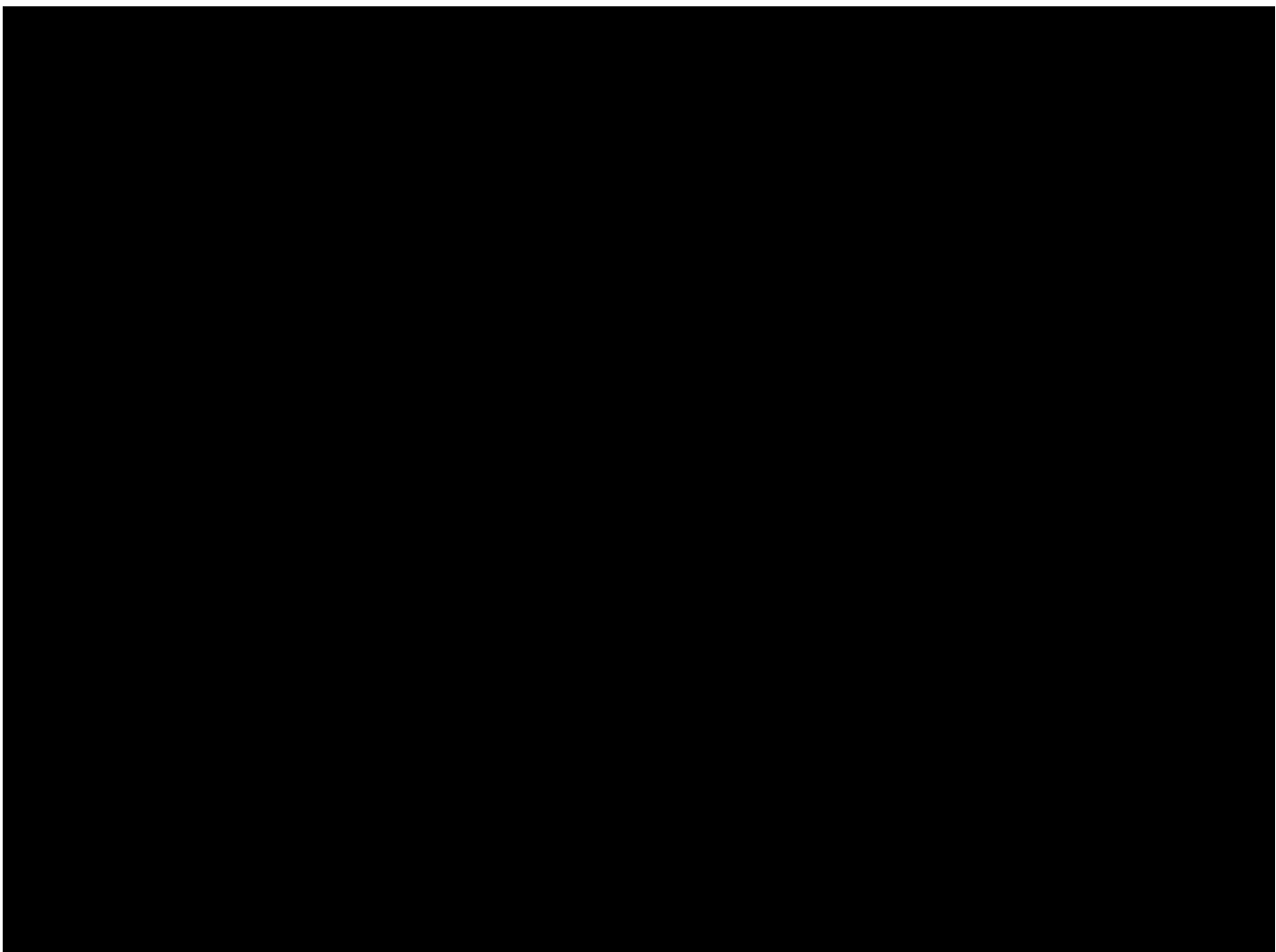


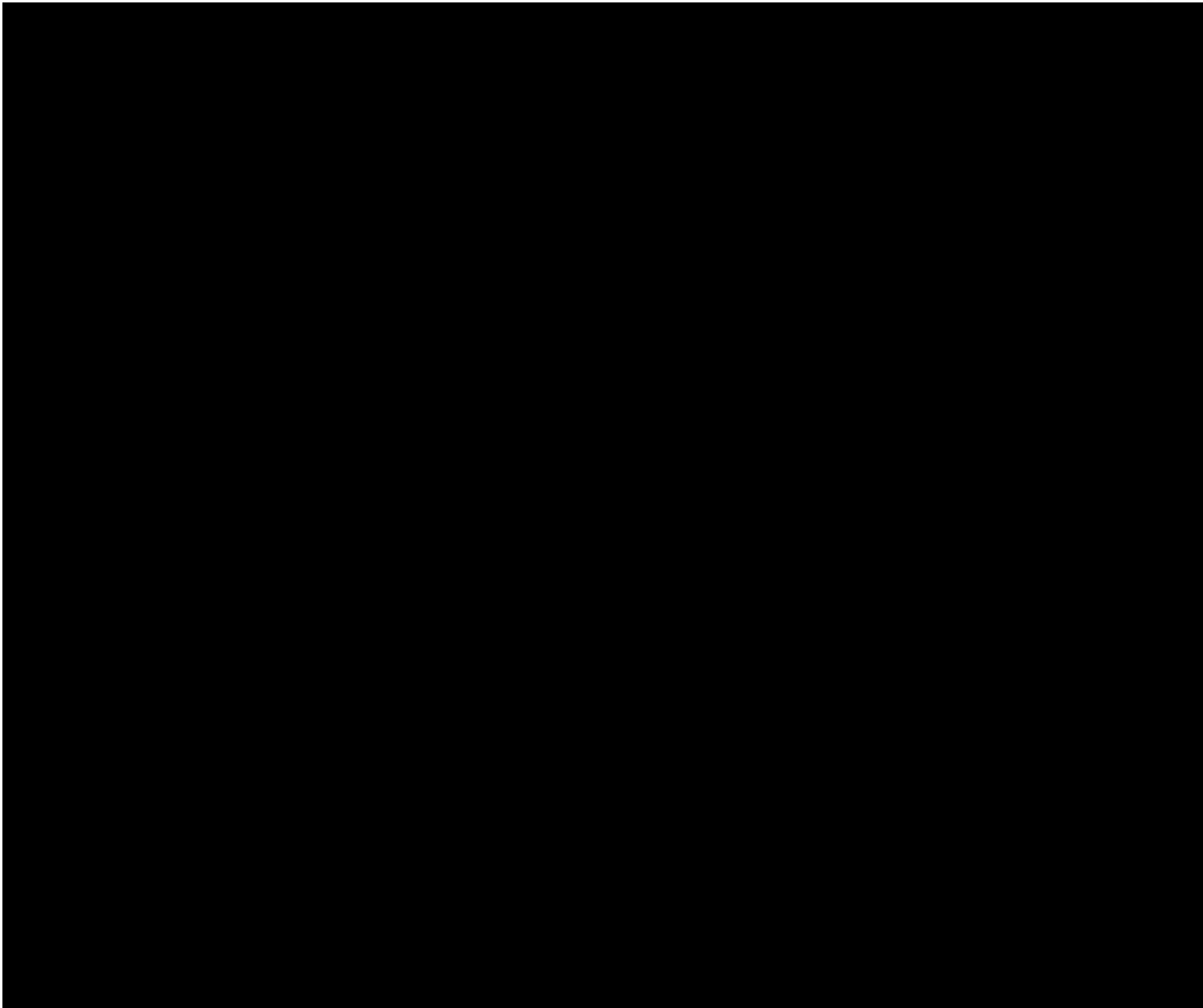


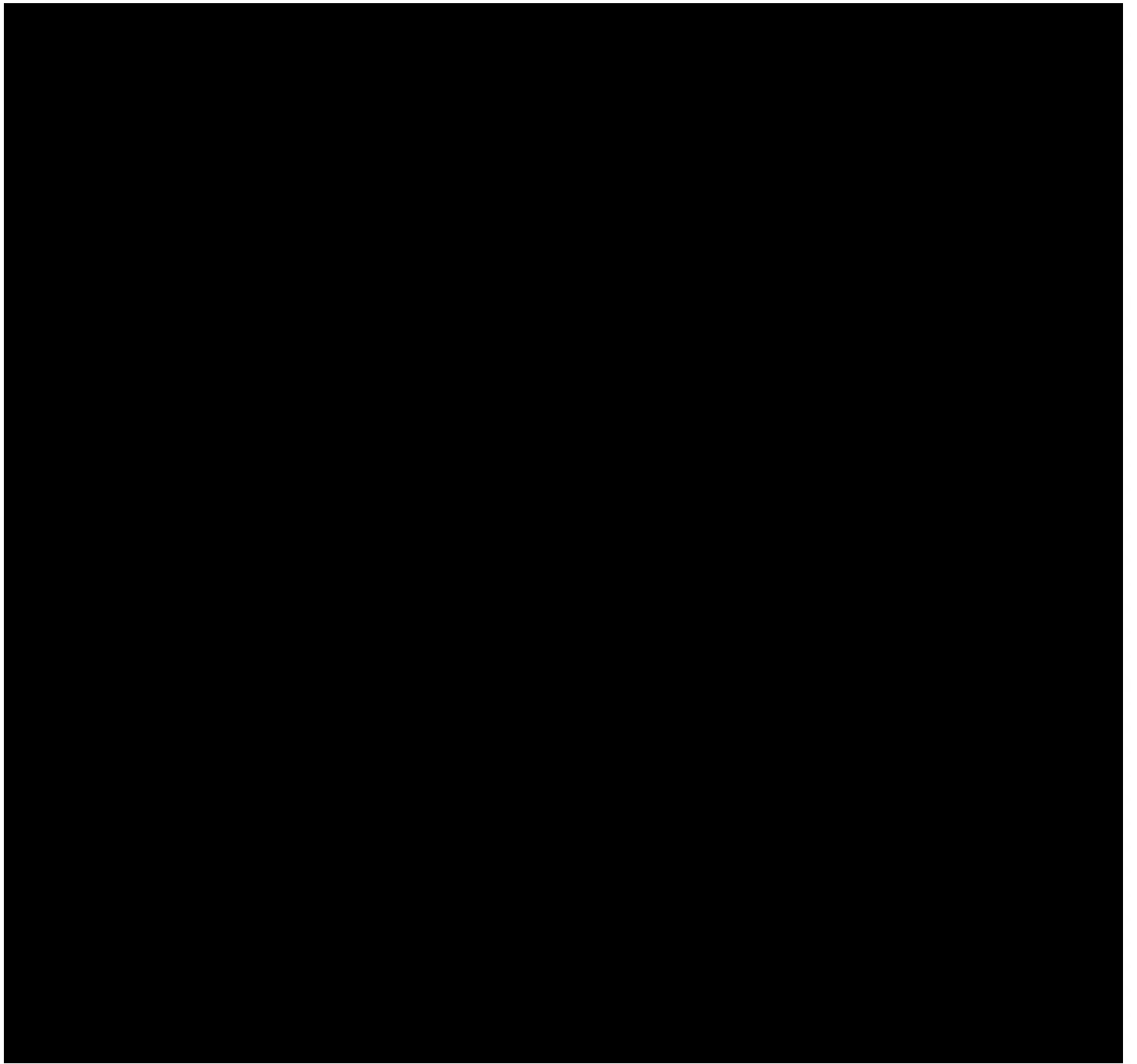


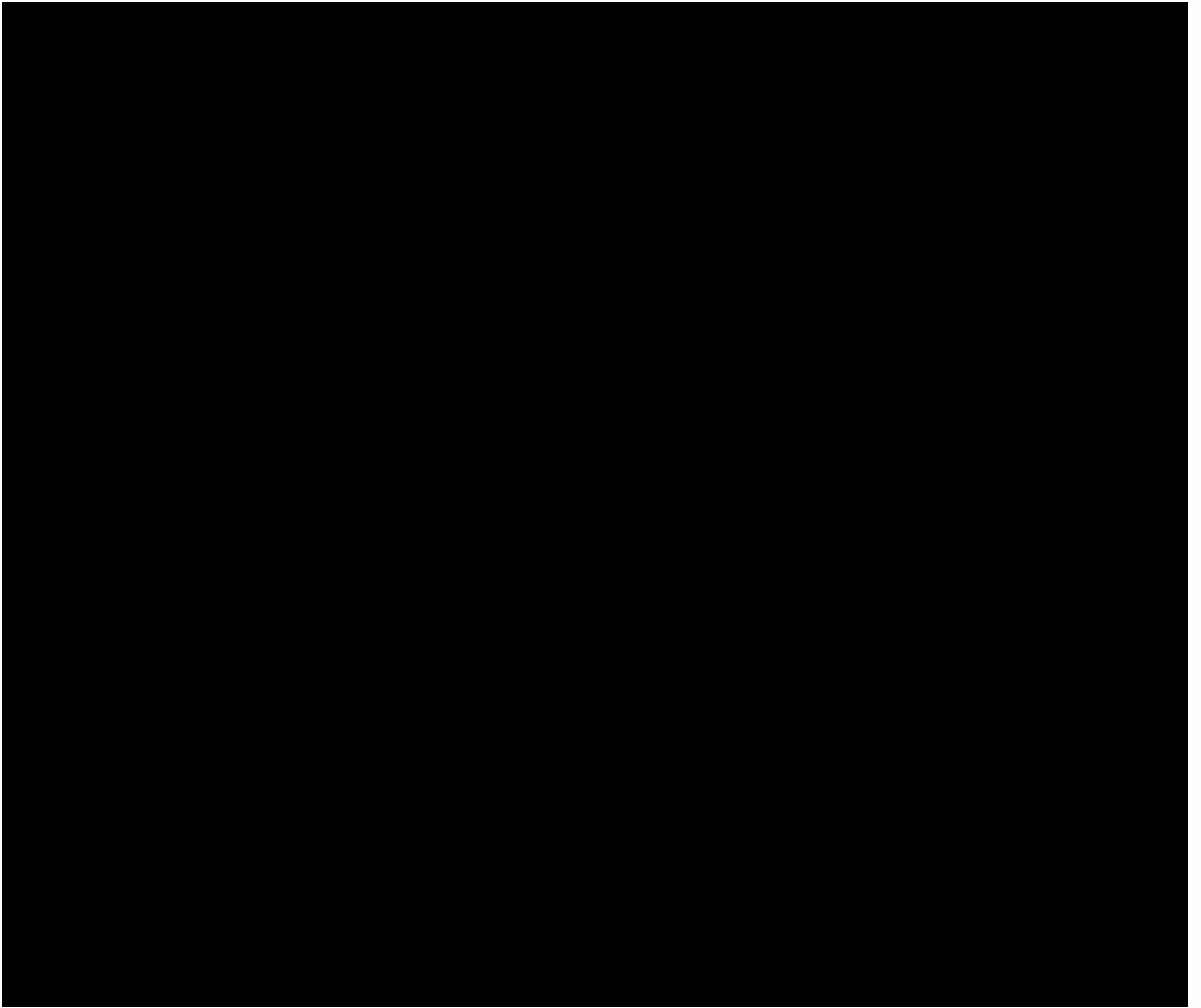




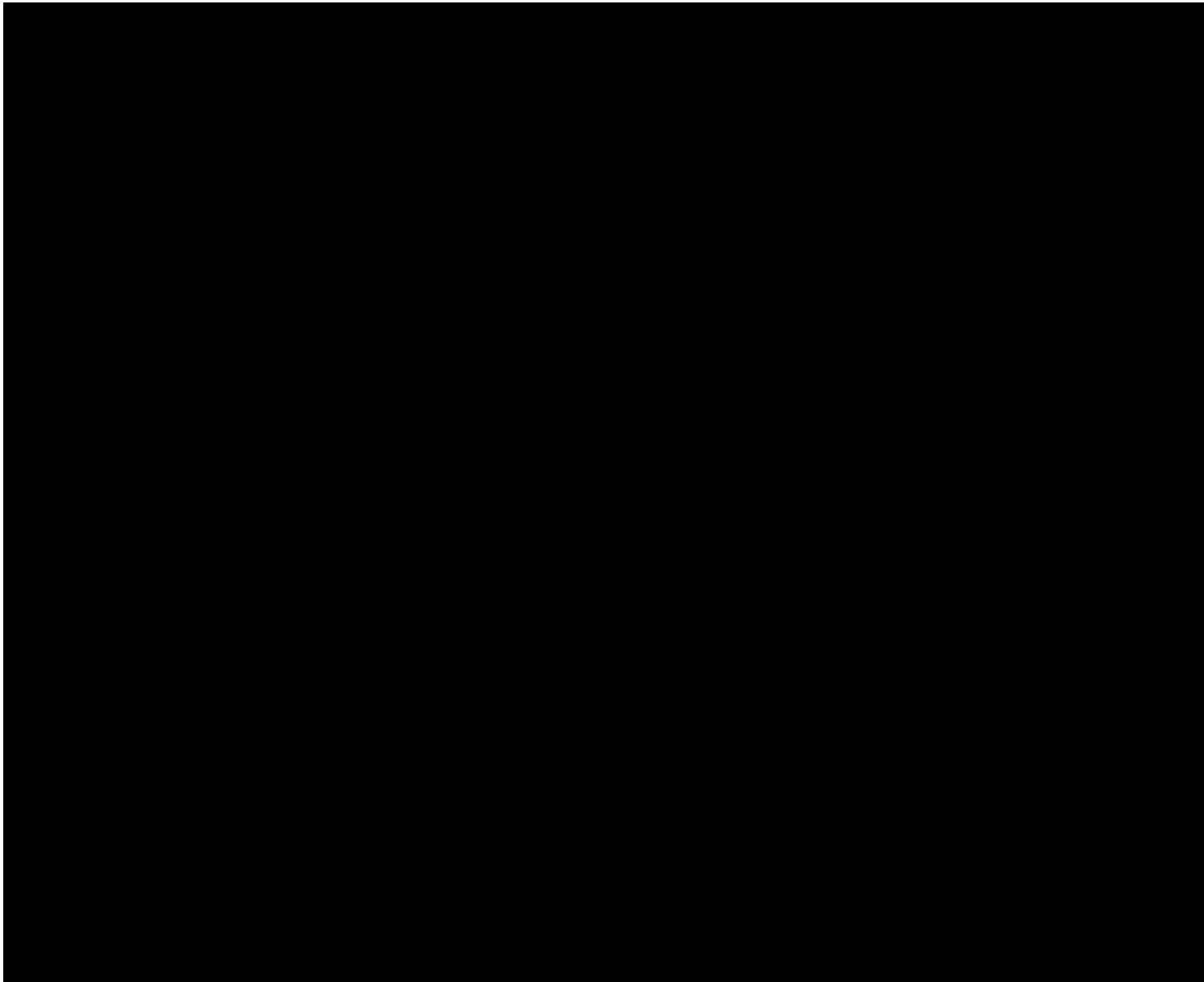


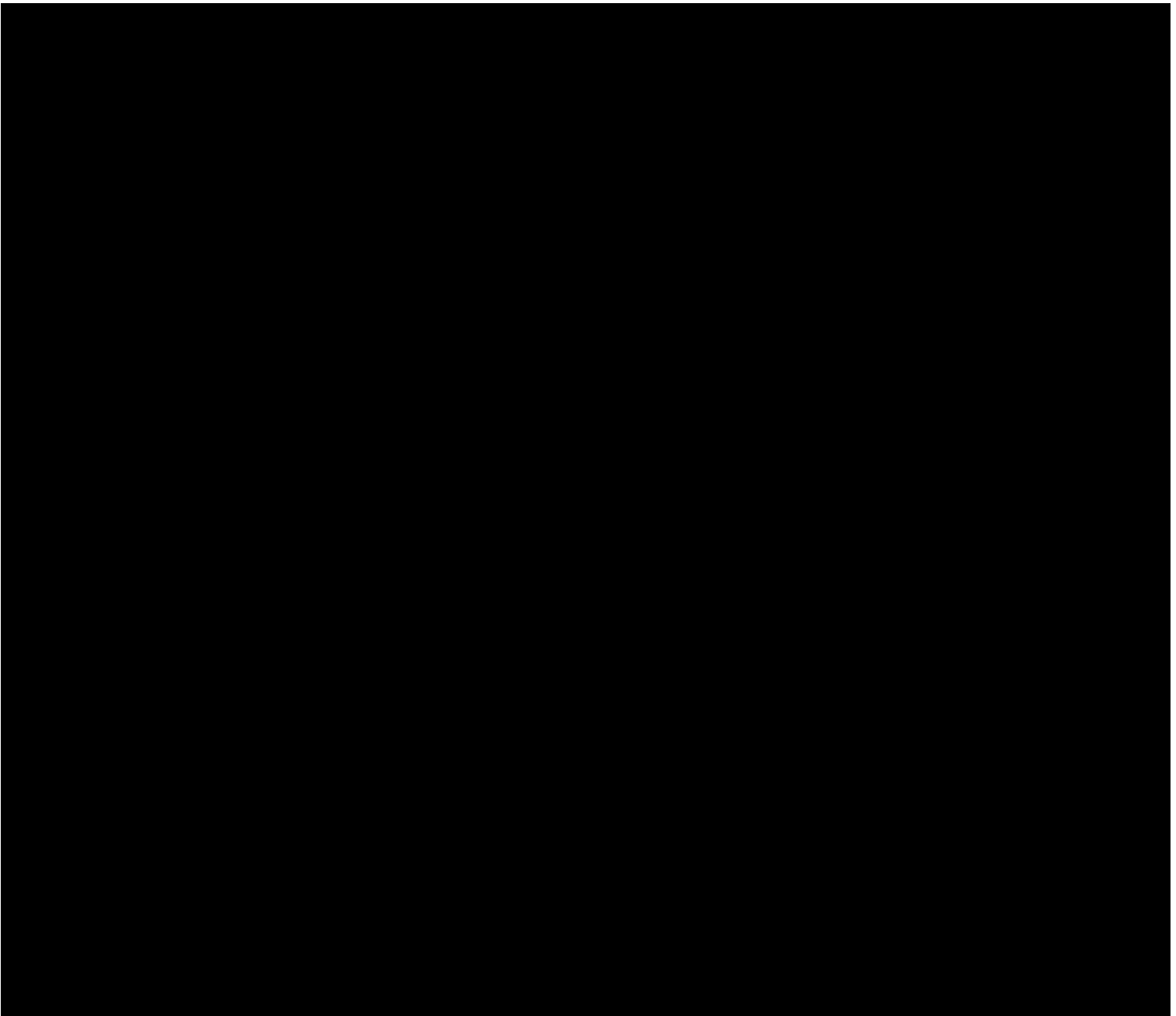


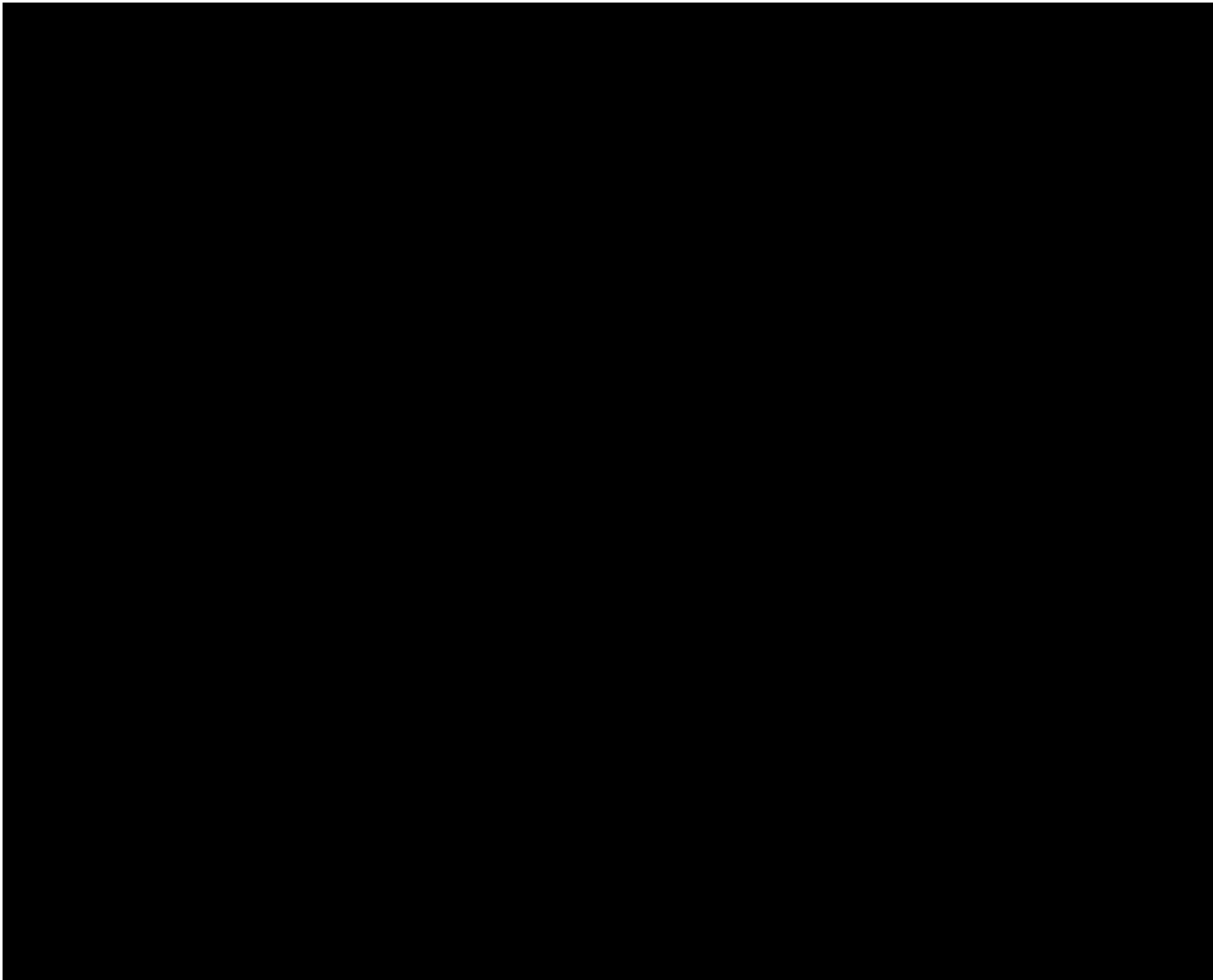


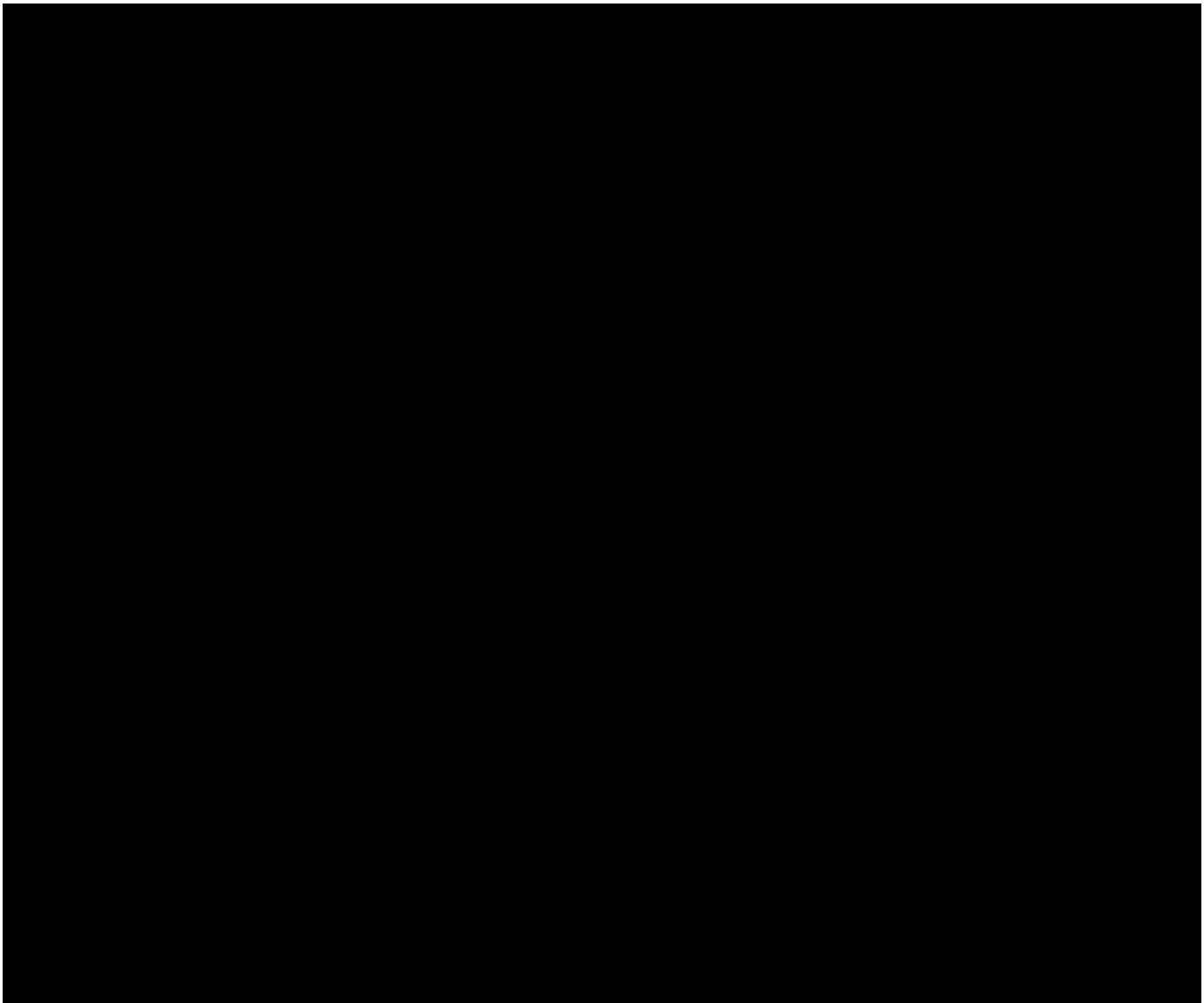




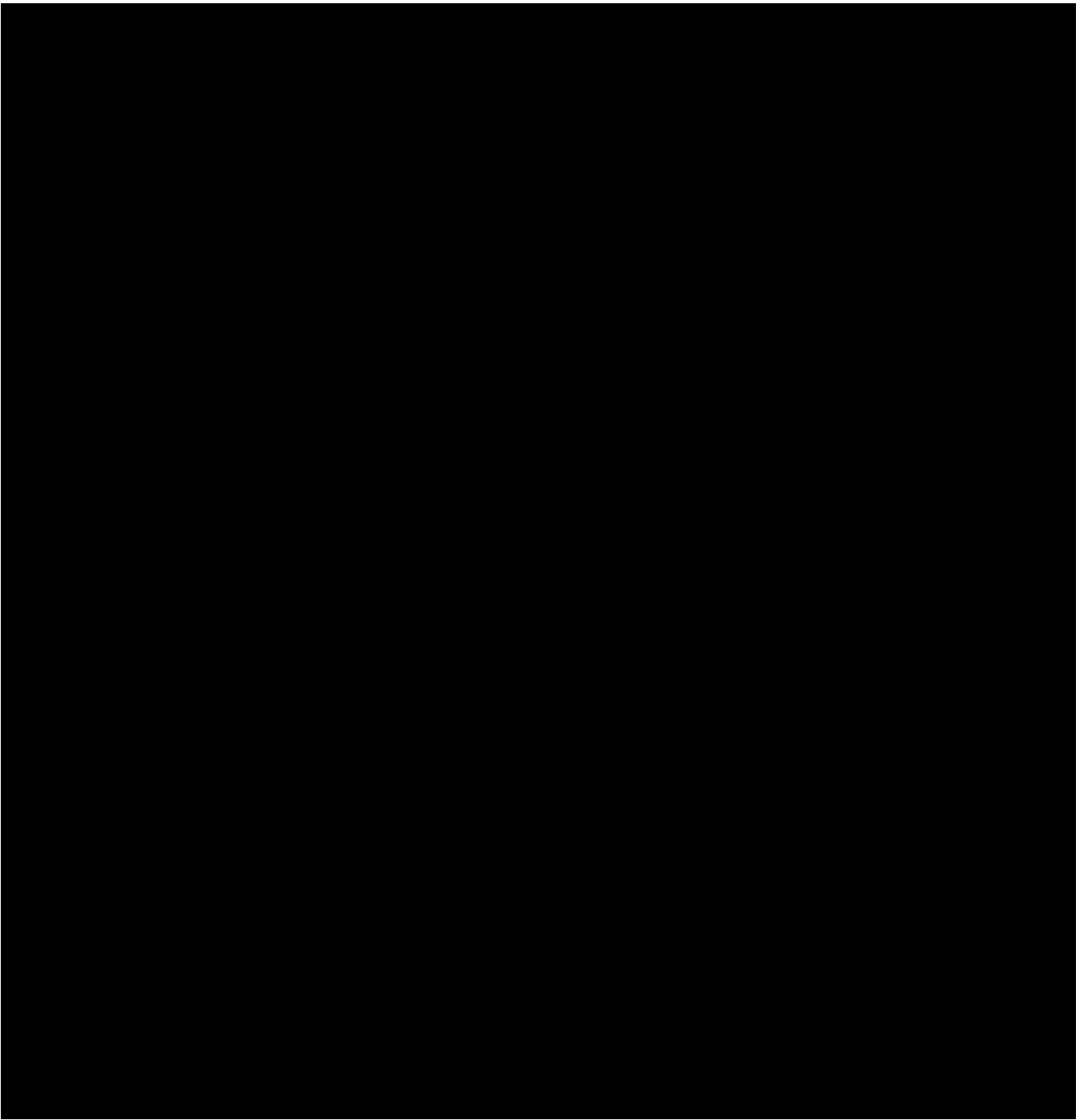








2



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

Date registered: June 6, 1995

-----		X
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----		X

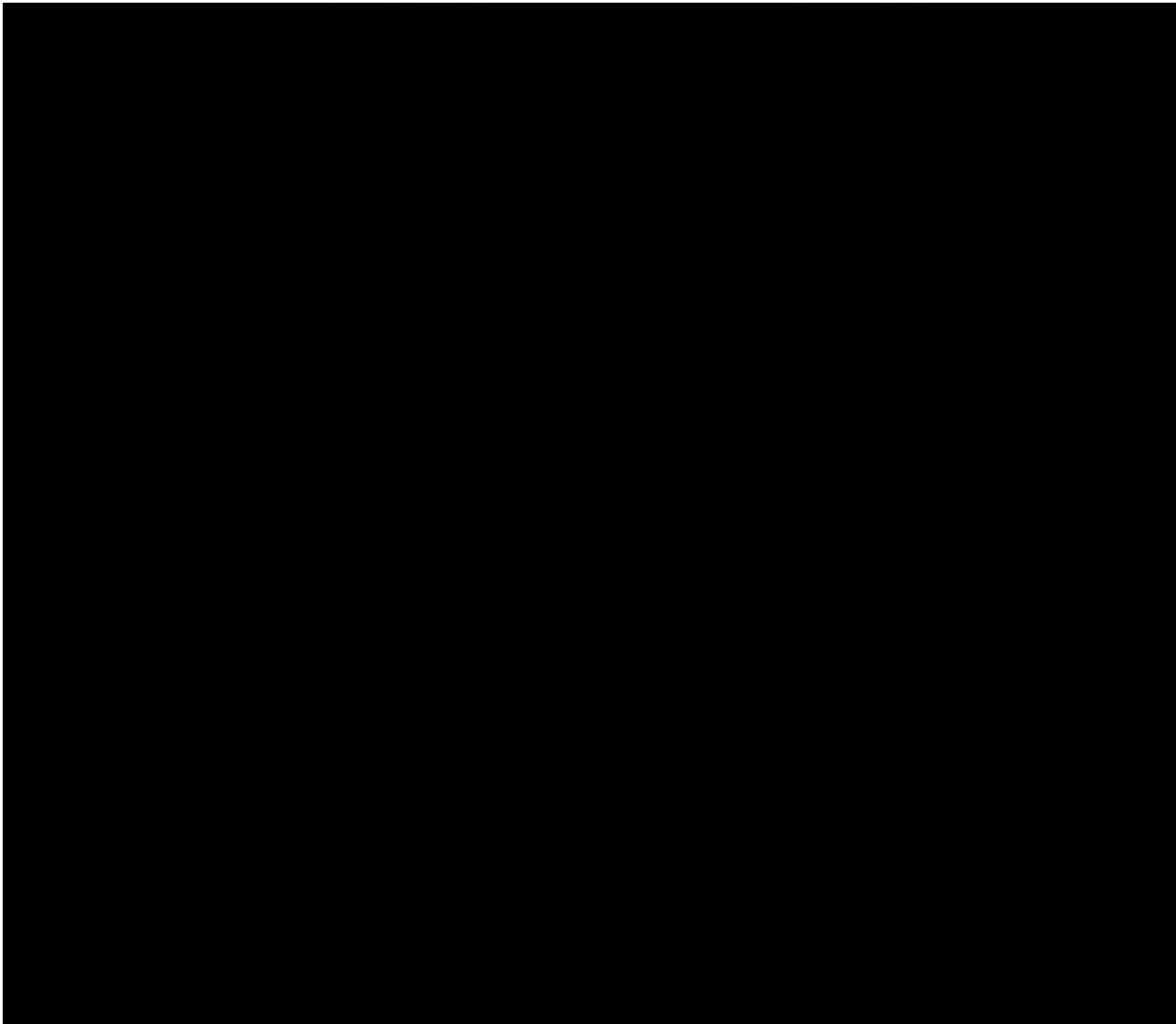
PARTY OFFERING: PETITIONER

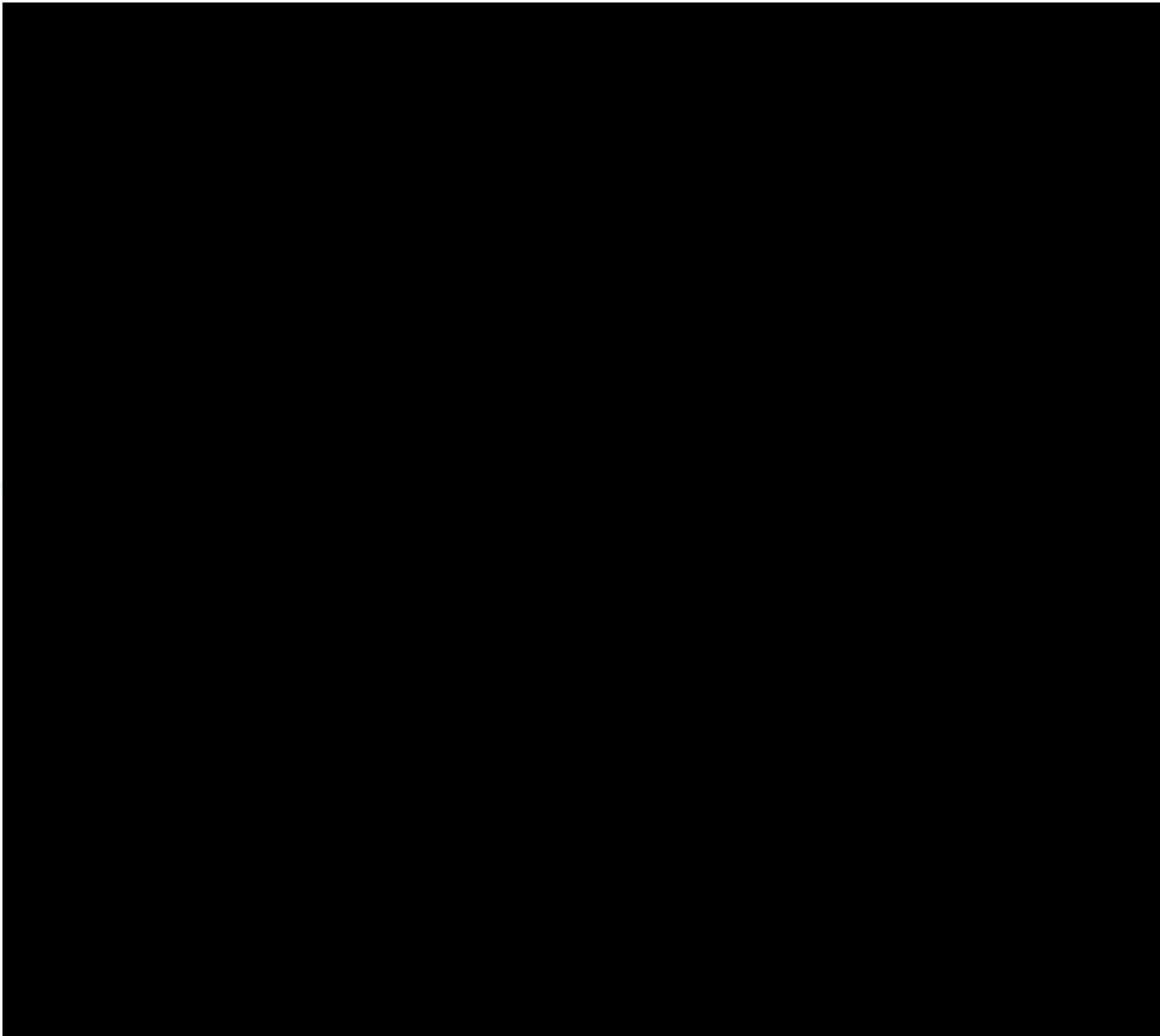
**Exhibit 5 to the TTAB Discovery Deposition Transcript of  
Augustin Martinez, III, dated September 28, 2017**

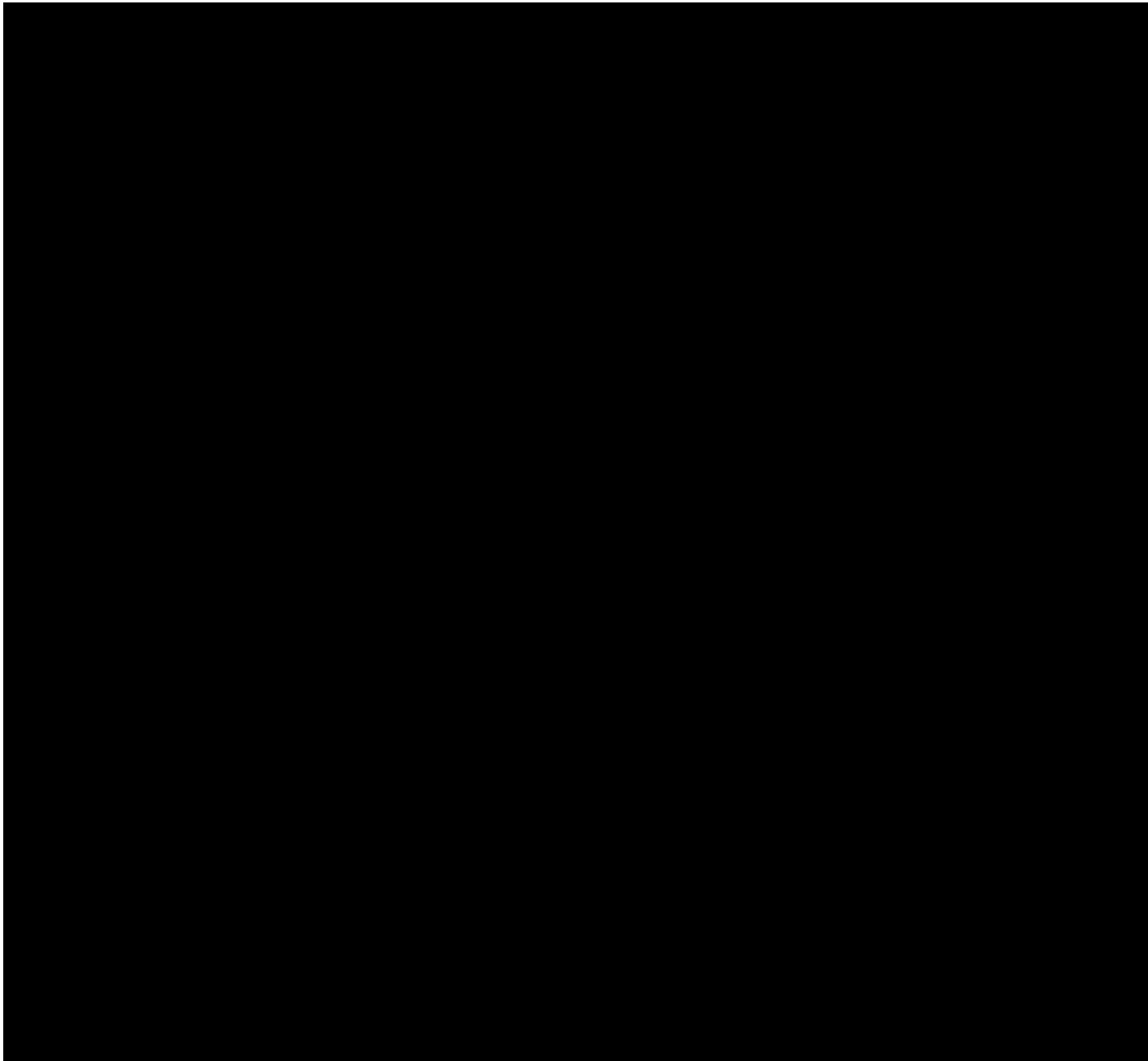


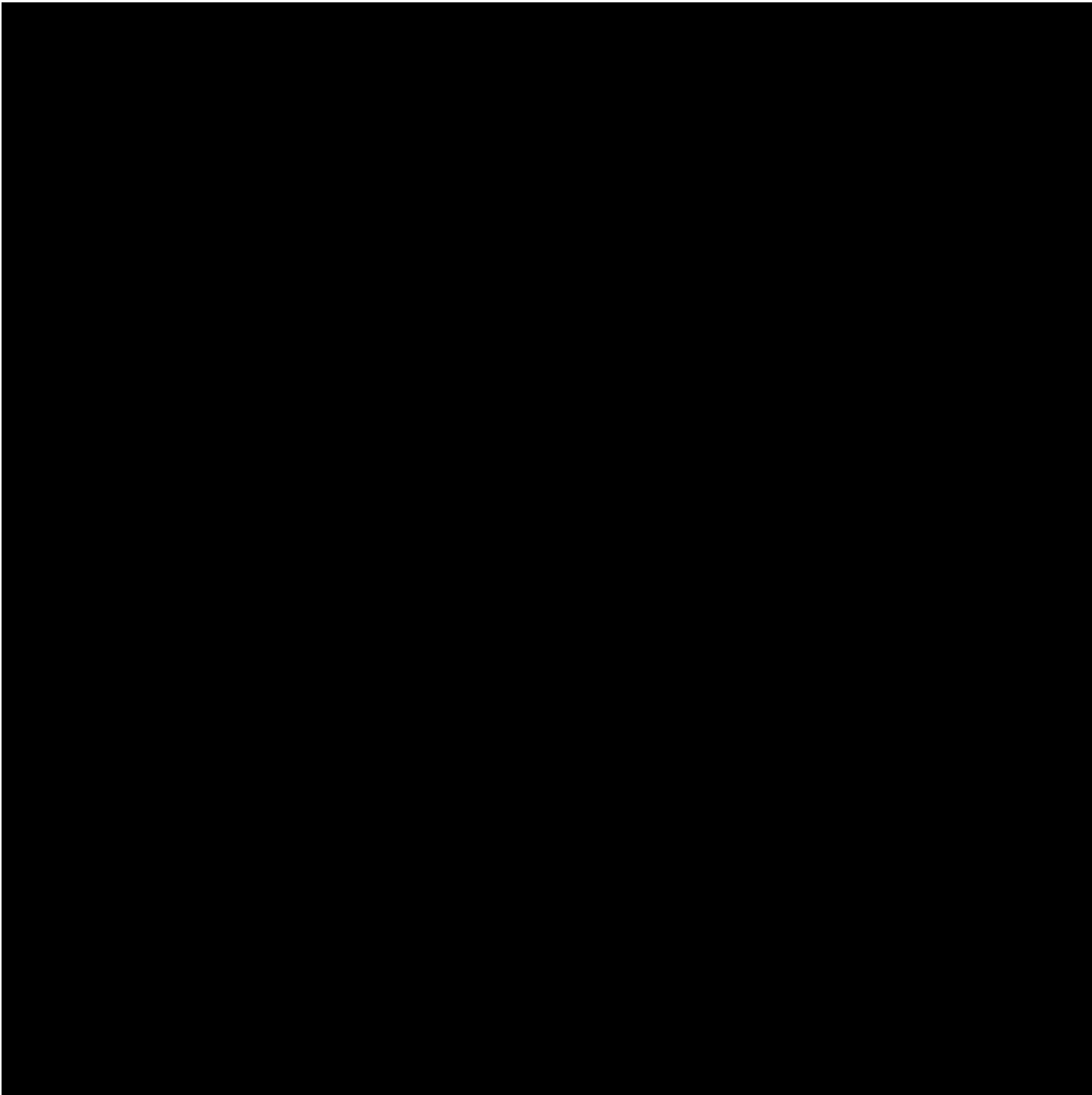


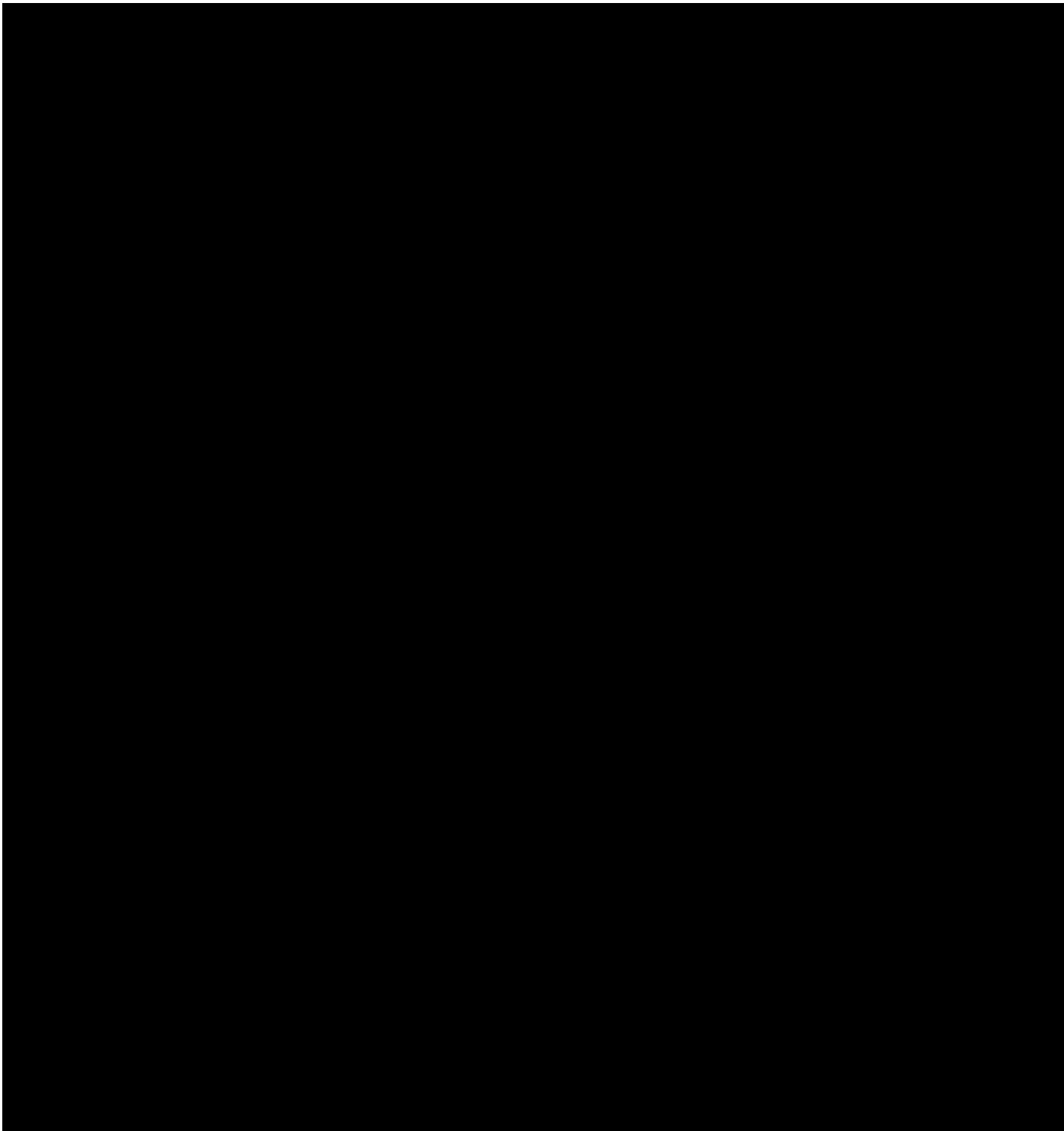


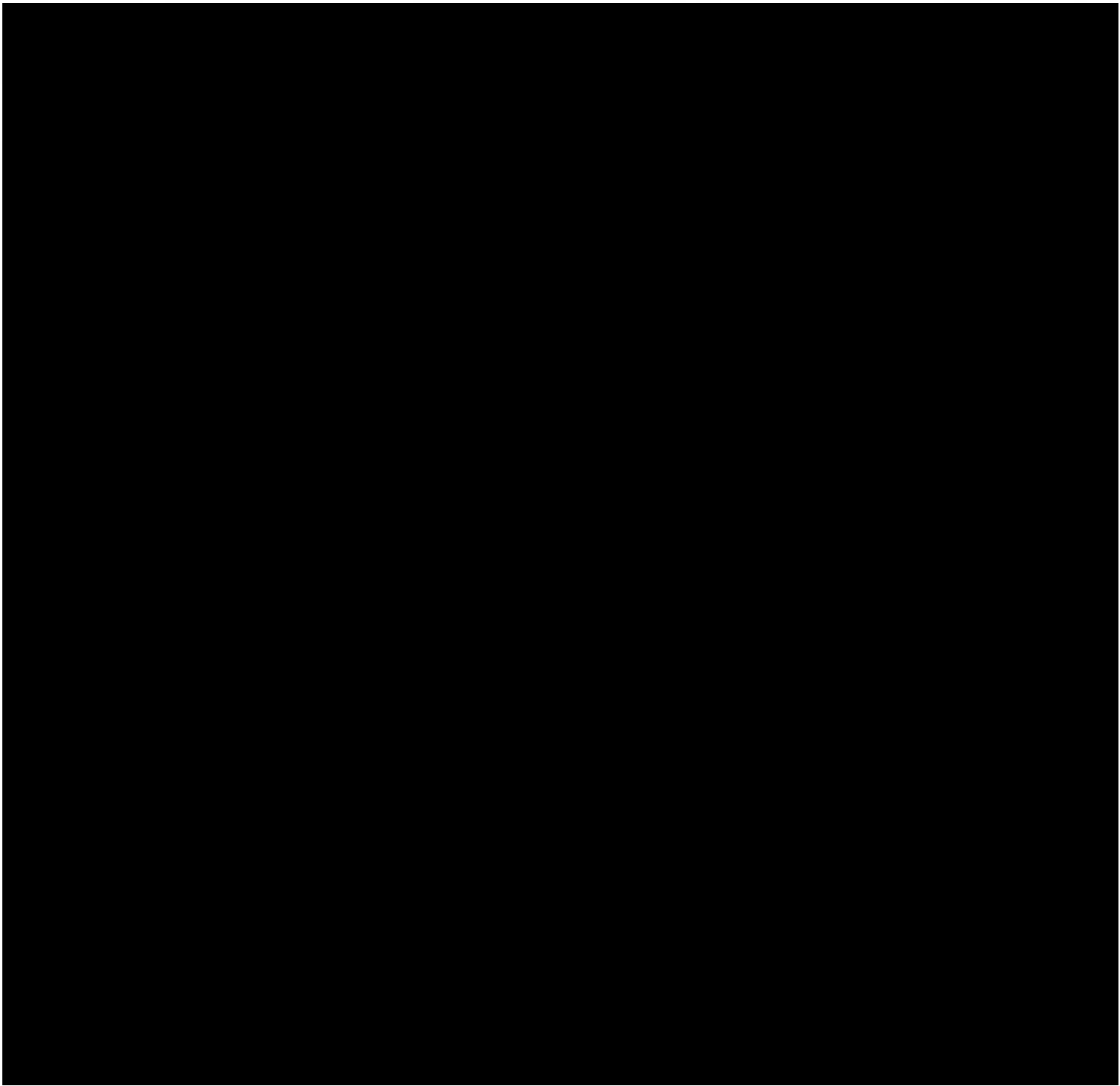


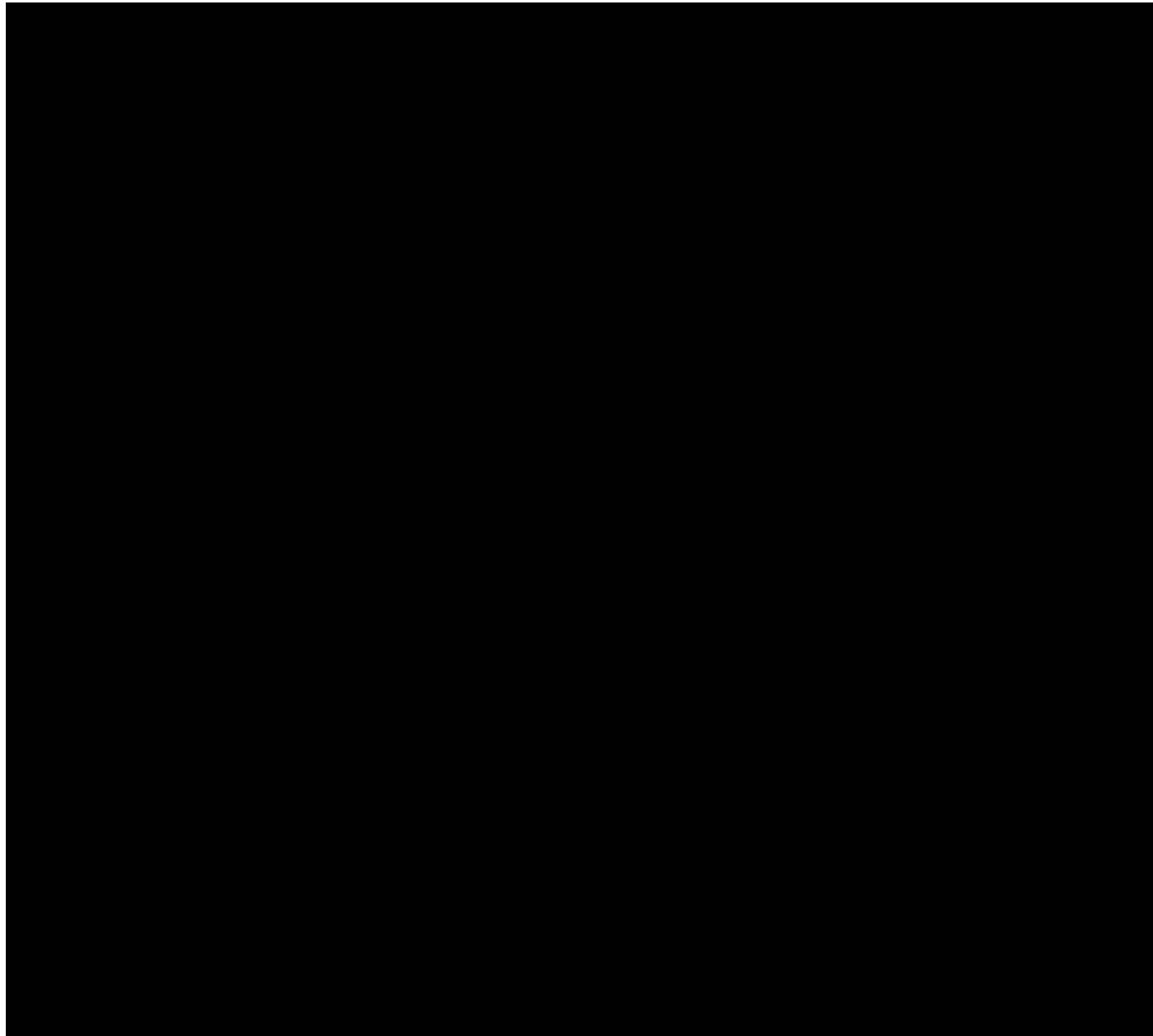


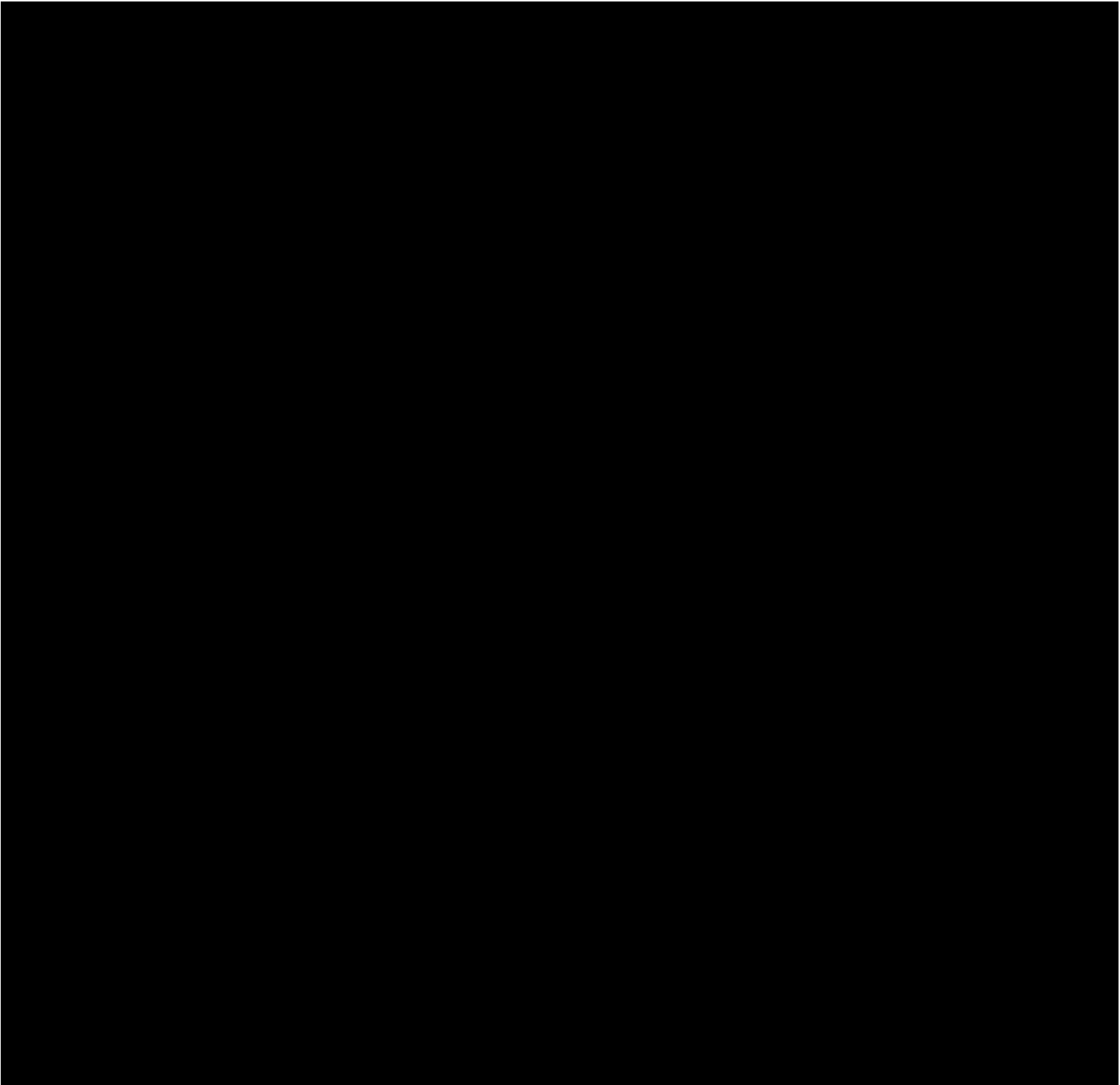




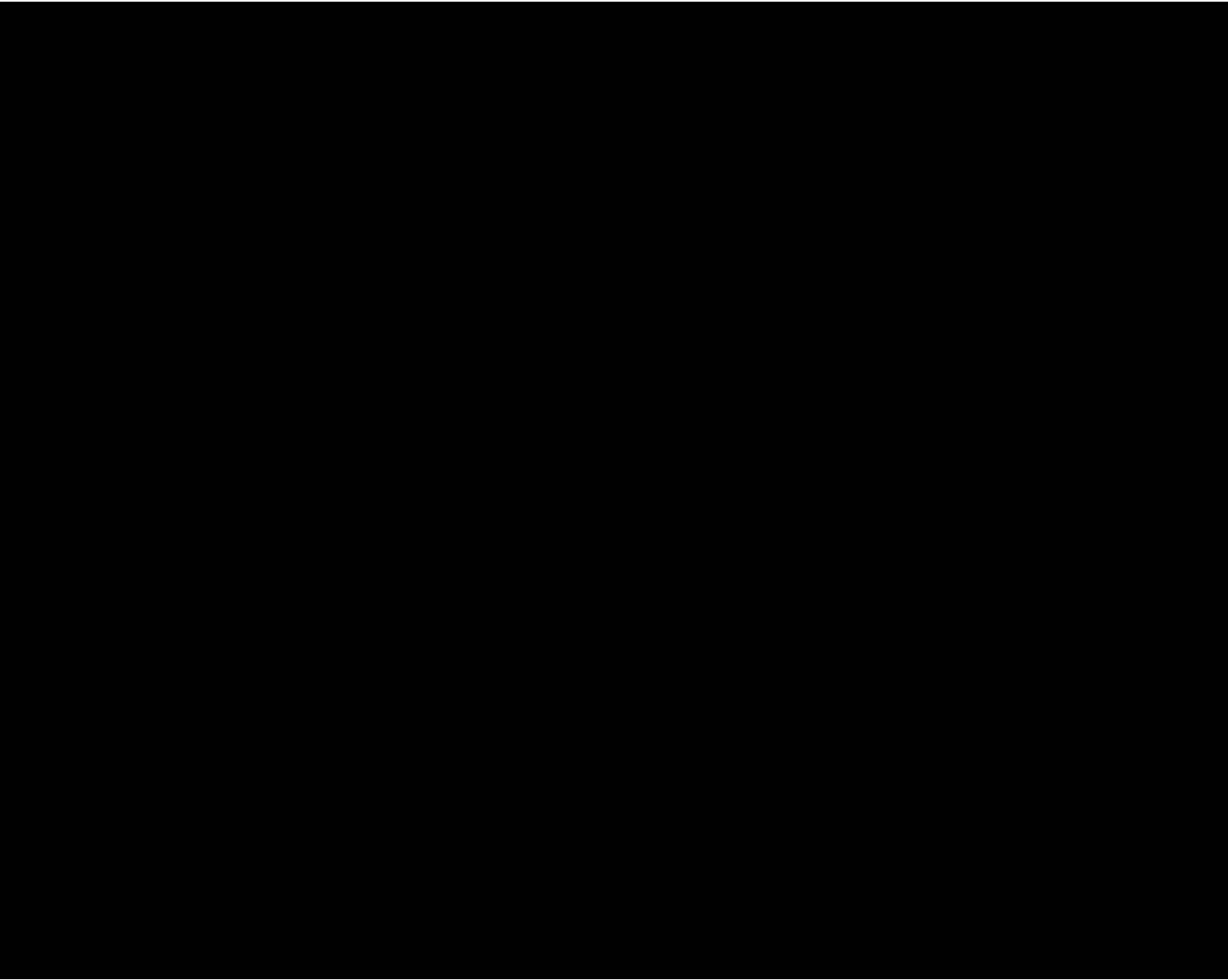


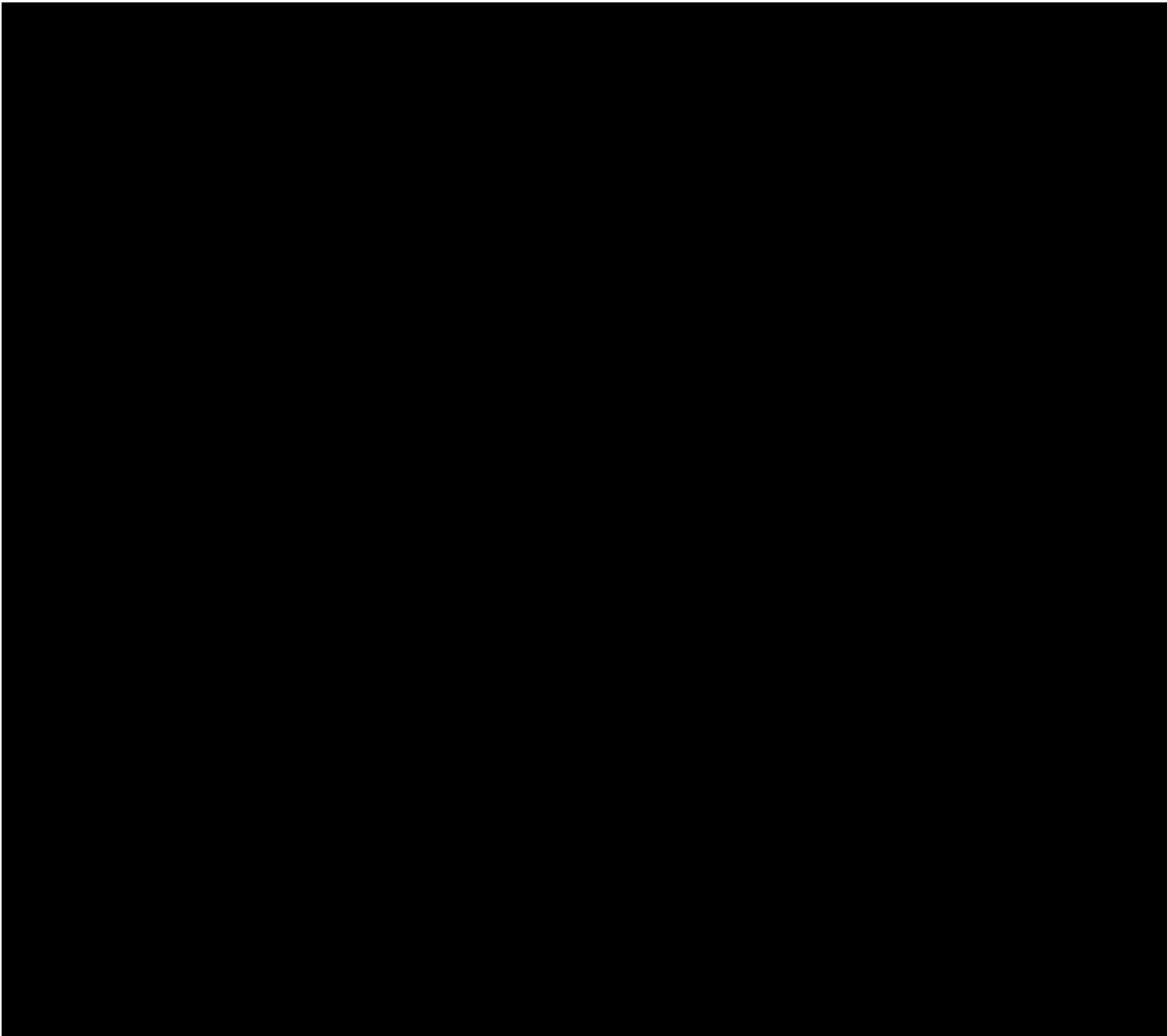




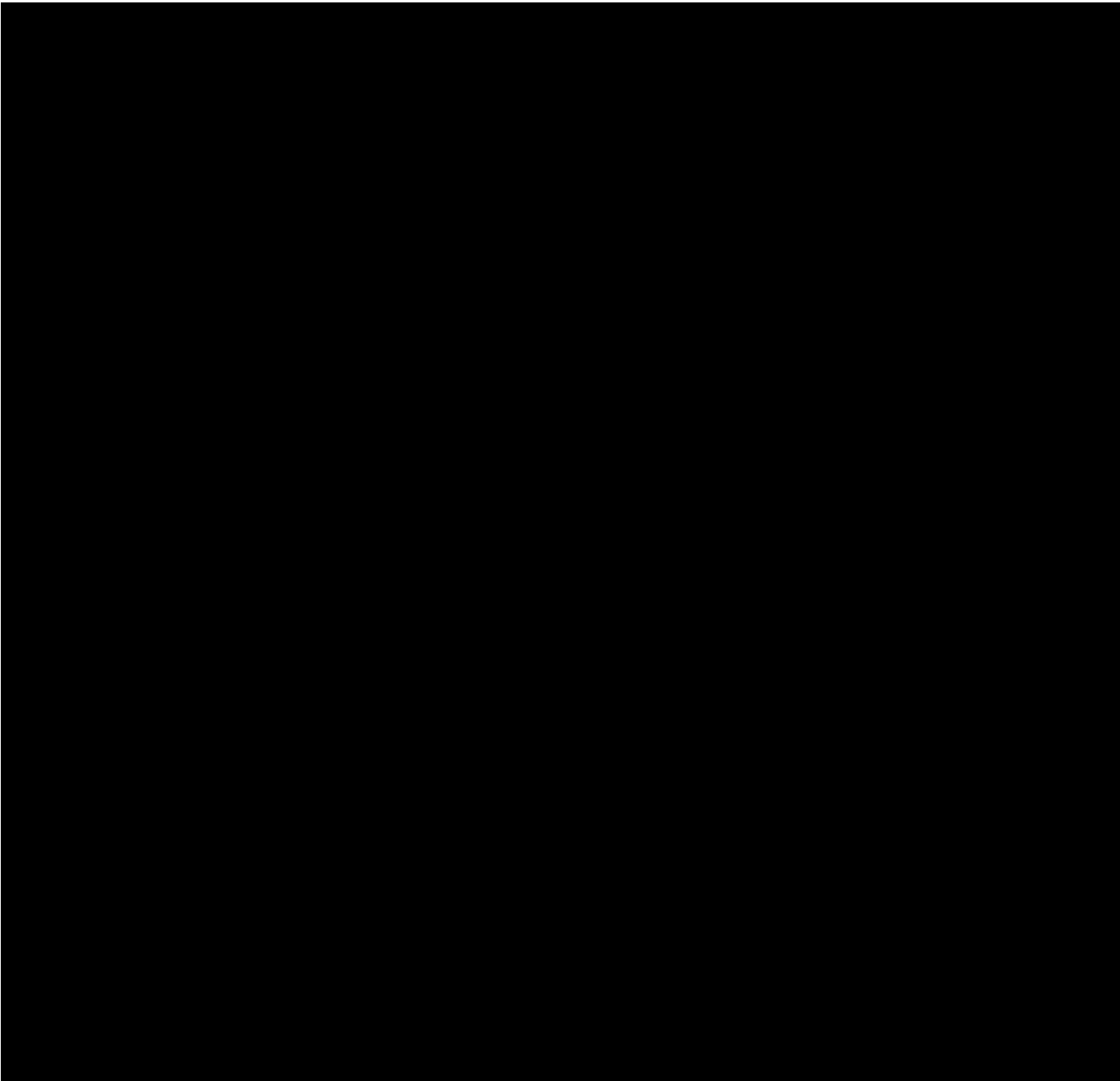




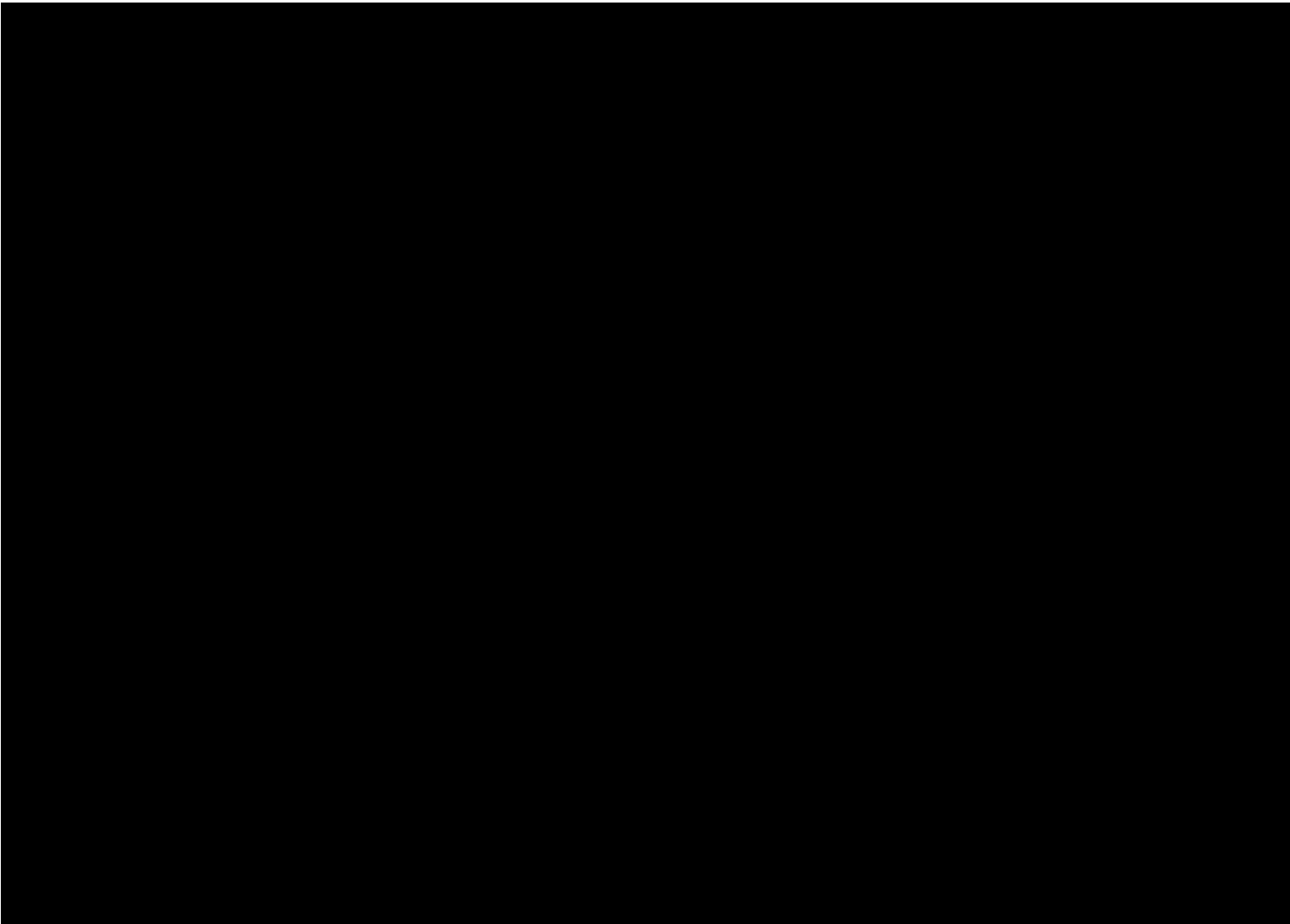


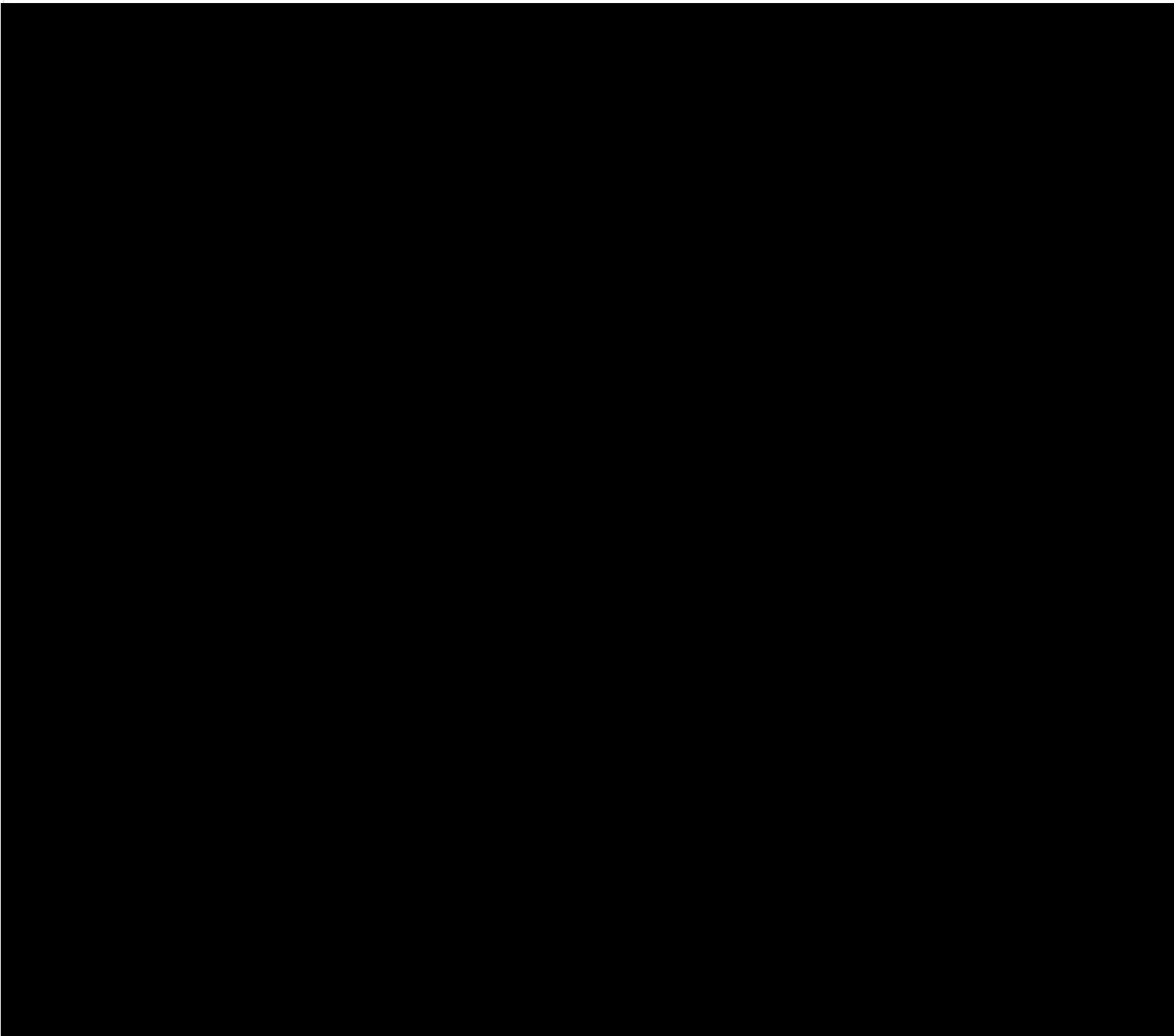


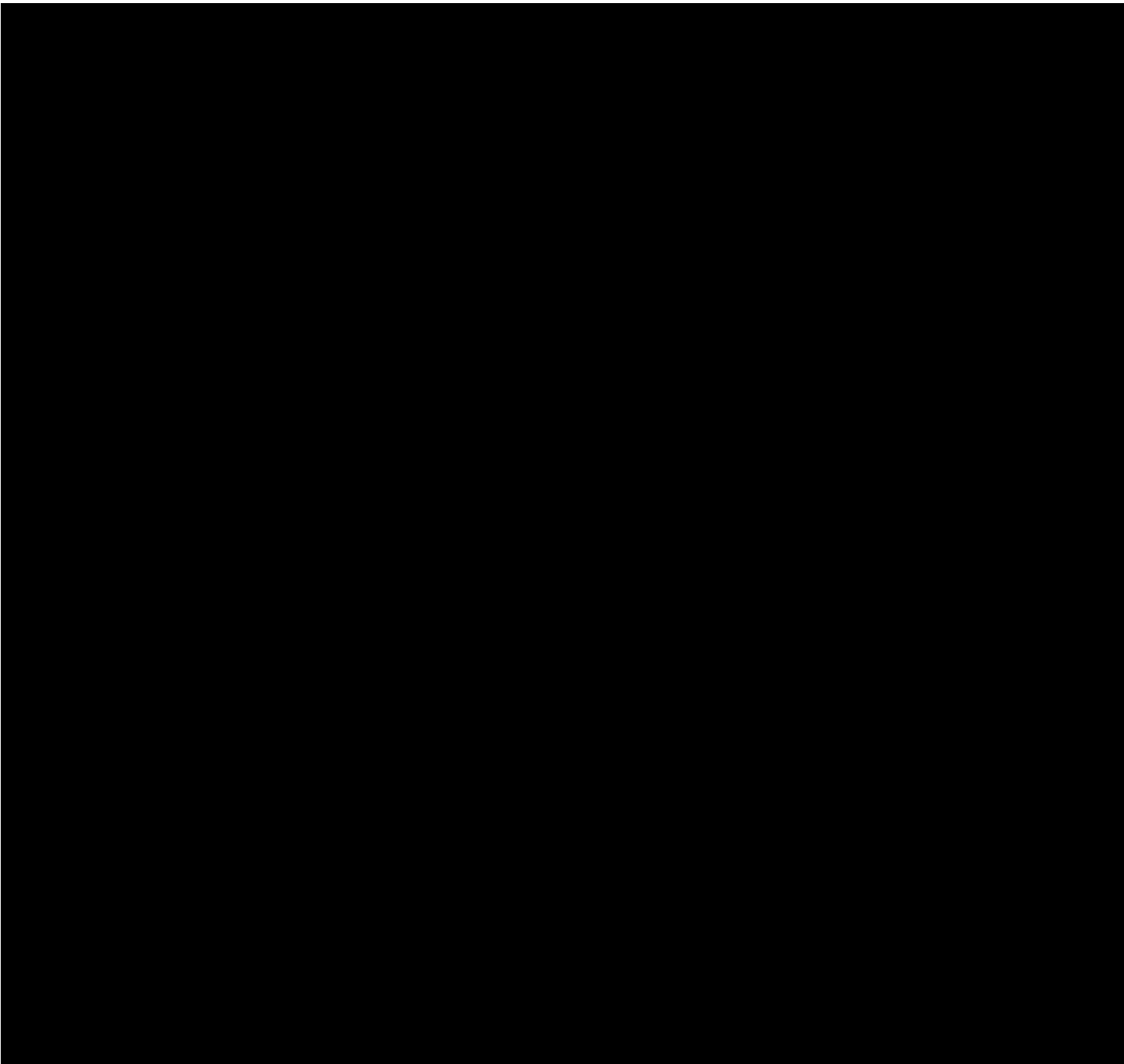
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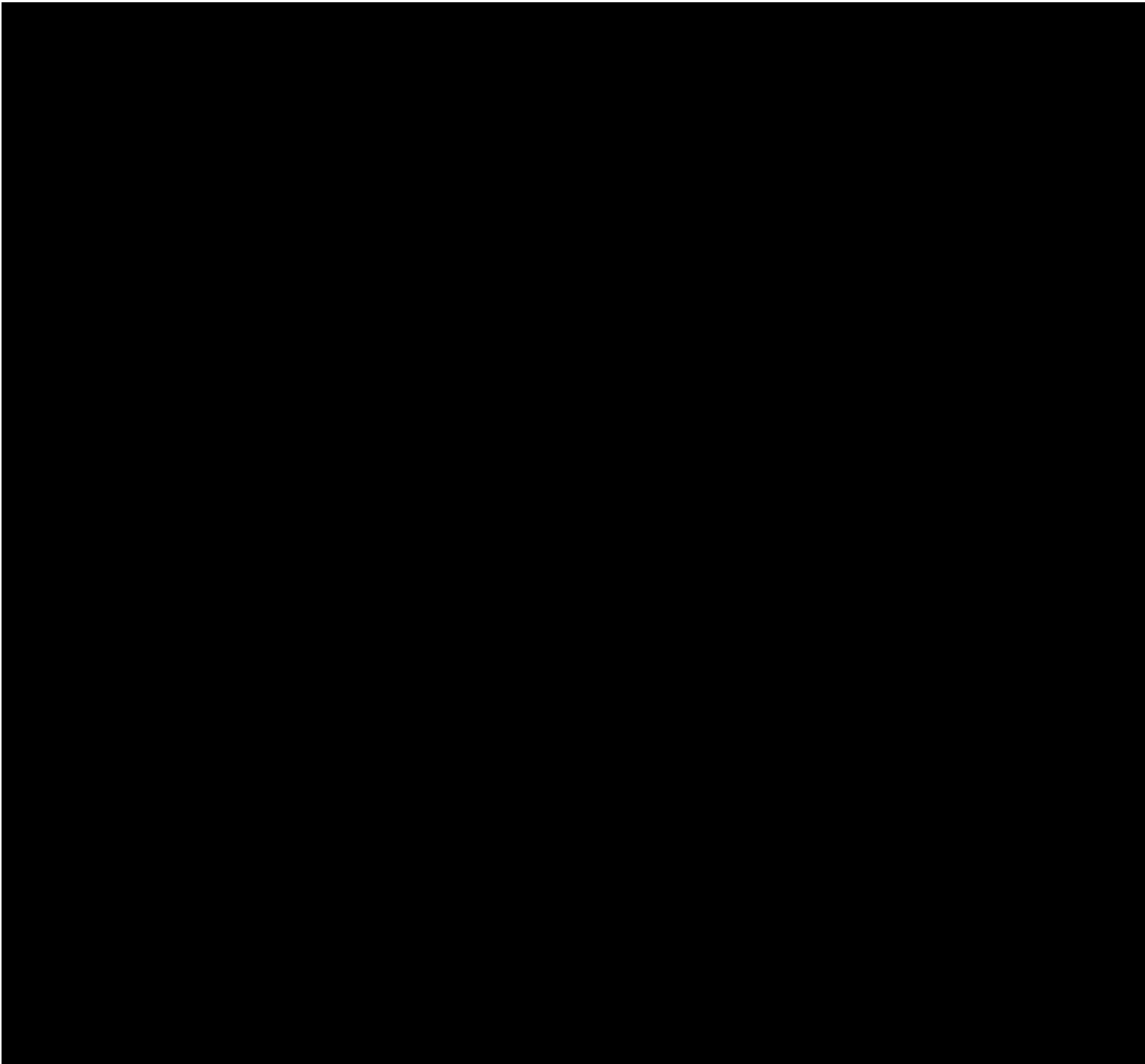




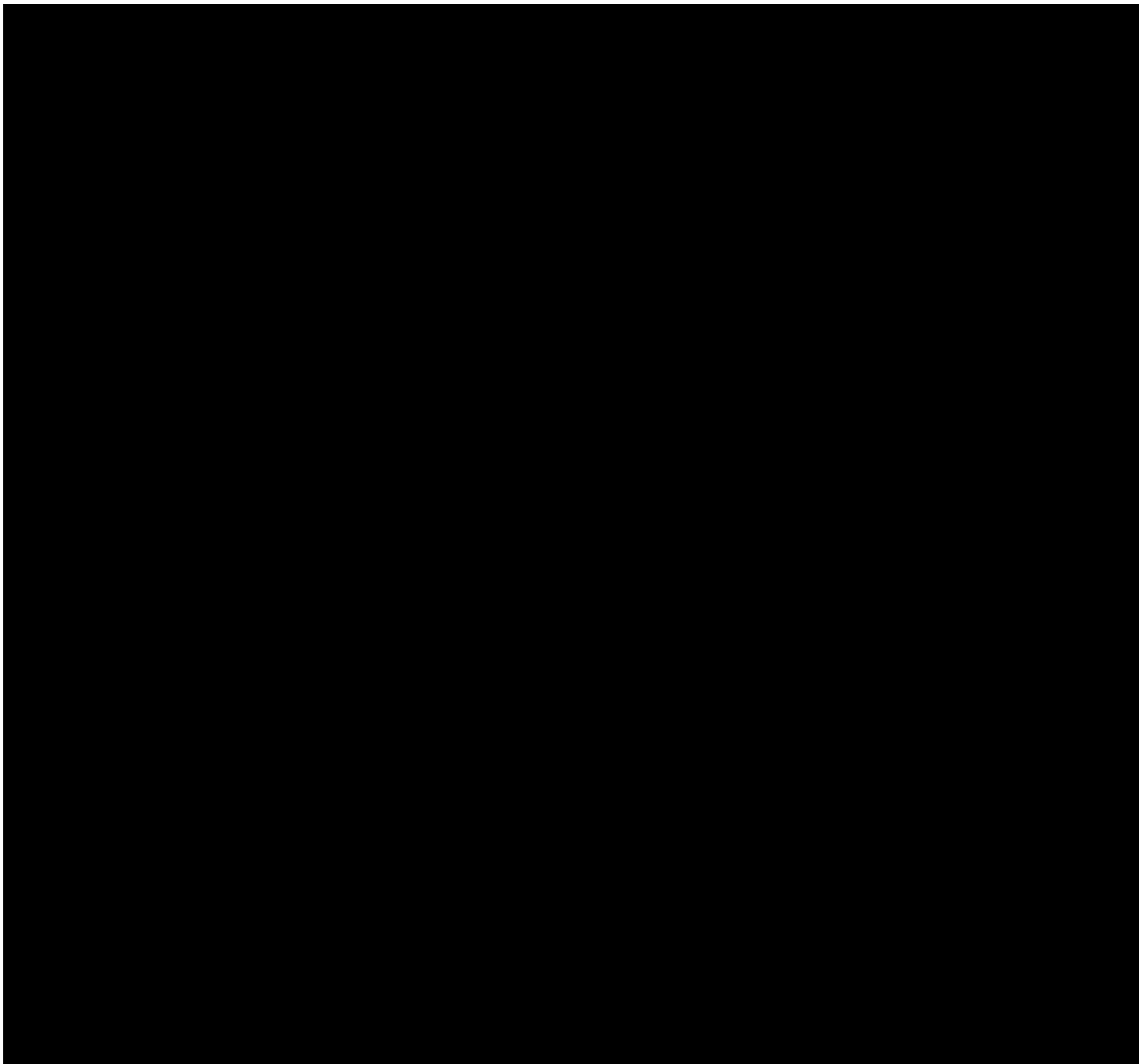












**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

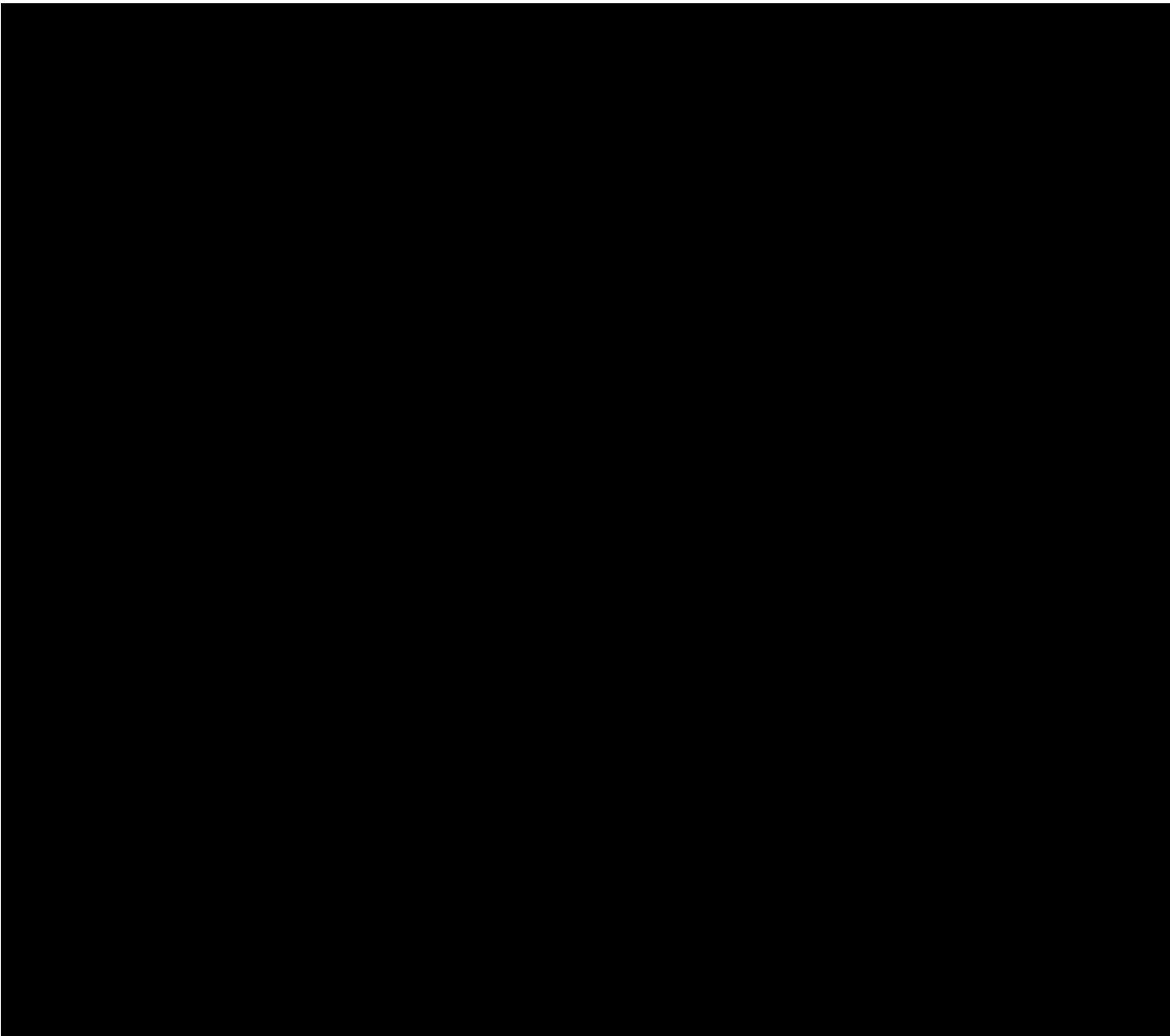
Date registered: June 6, 1995

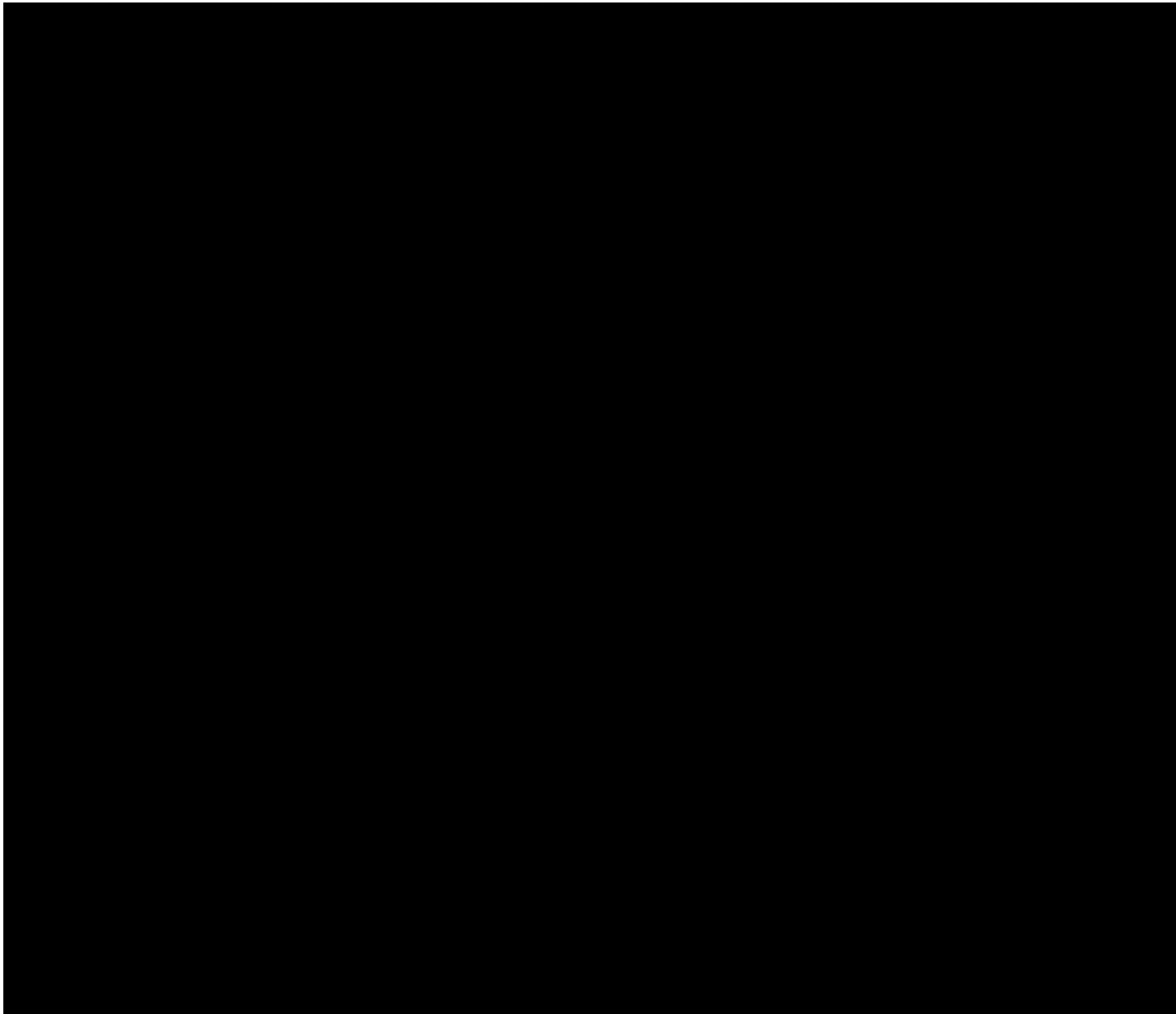
-----		X
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----		X

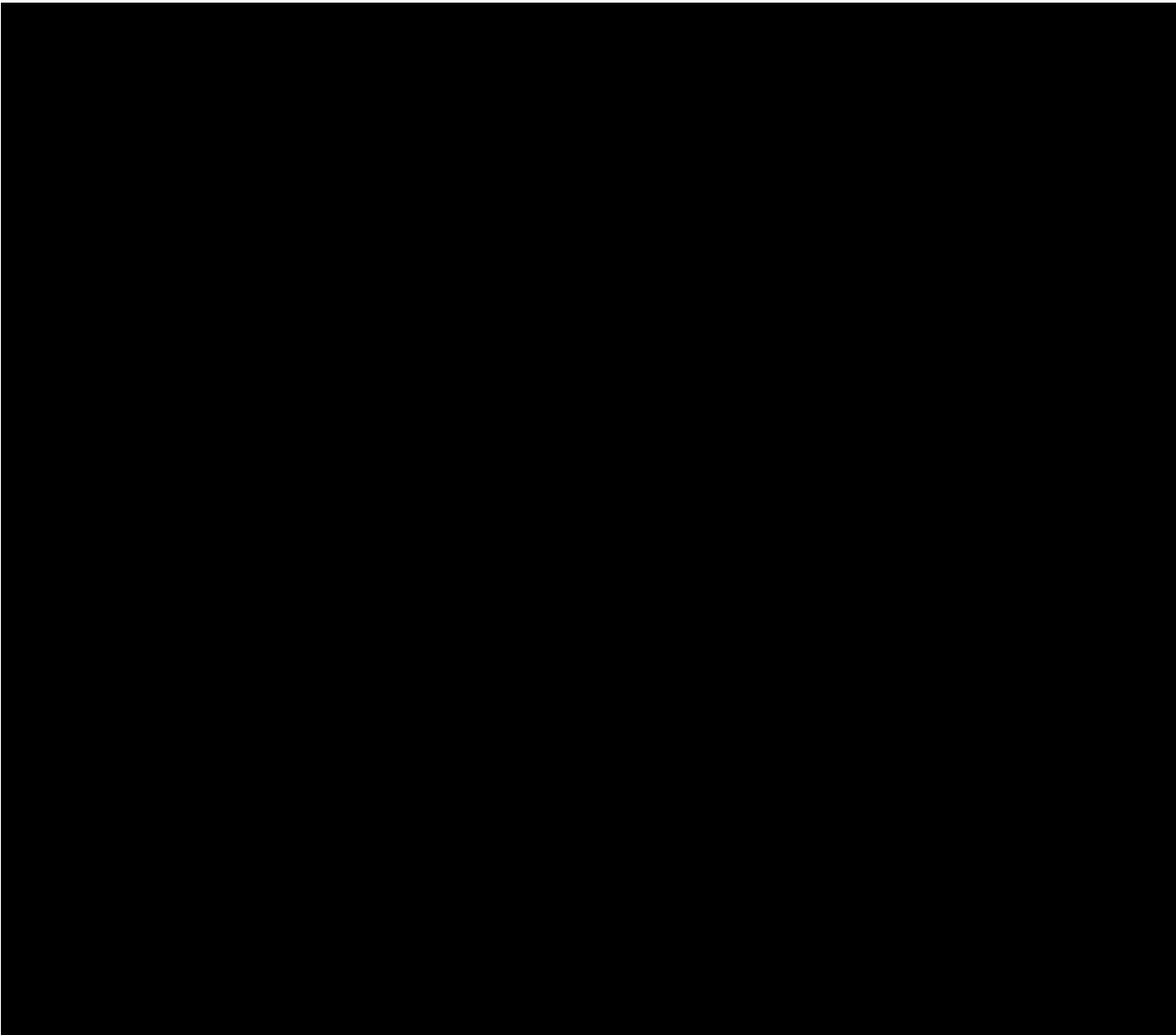
PARTY OFFERING: PETITIONER

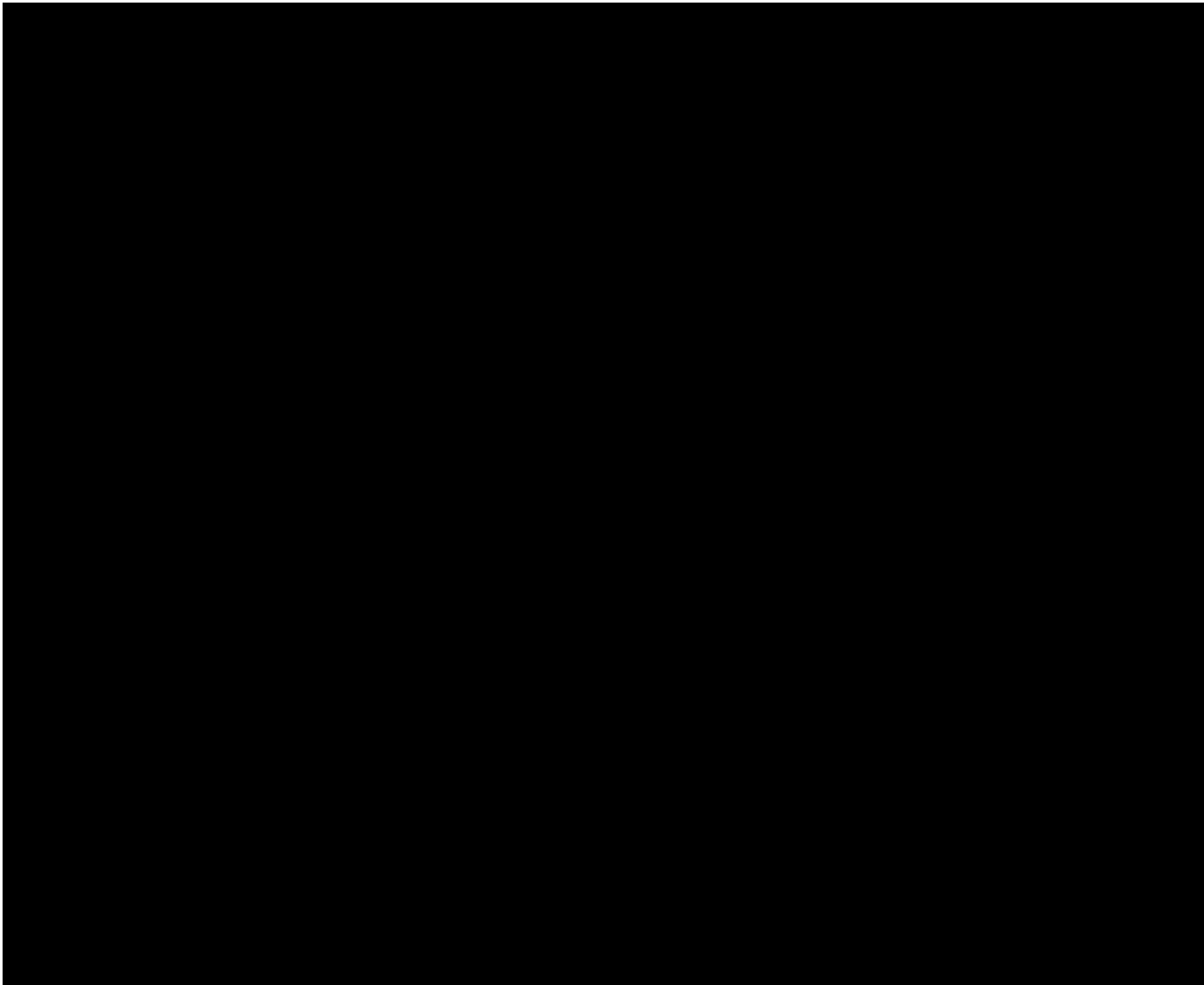
**Exhibit 6 to the TTAB Discovery Deposition Transcript of  
Augustin Martinez, III, dated September 28, 2017**

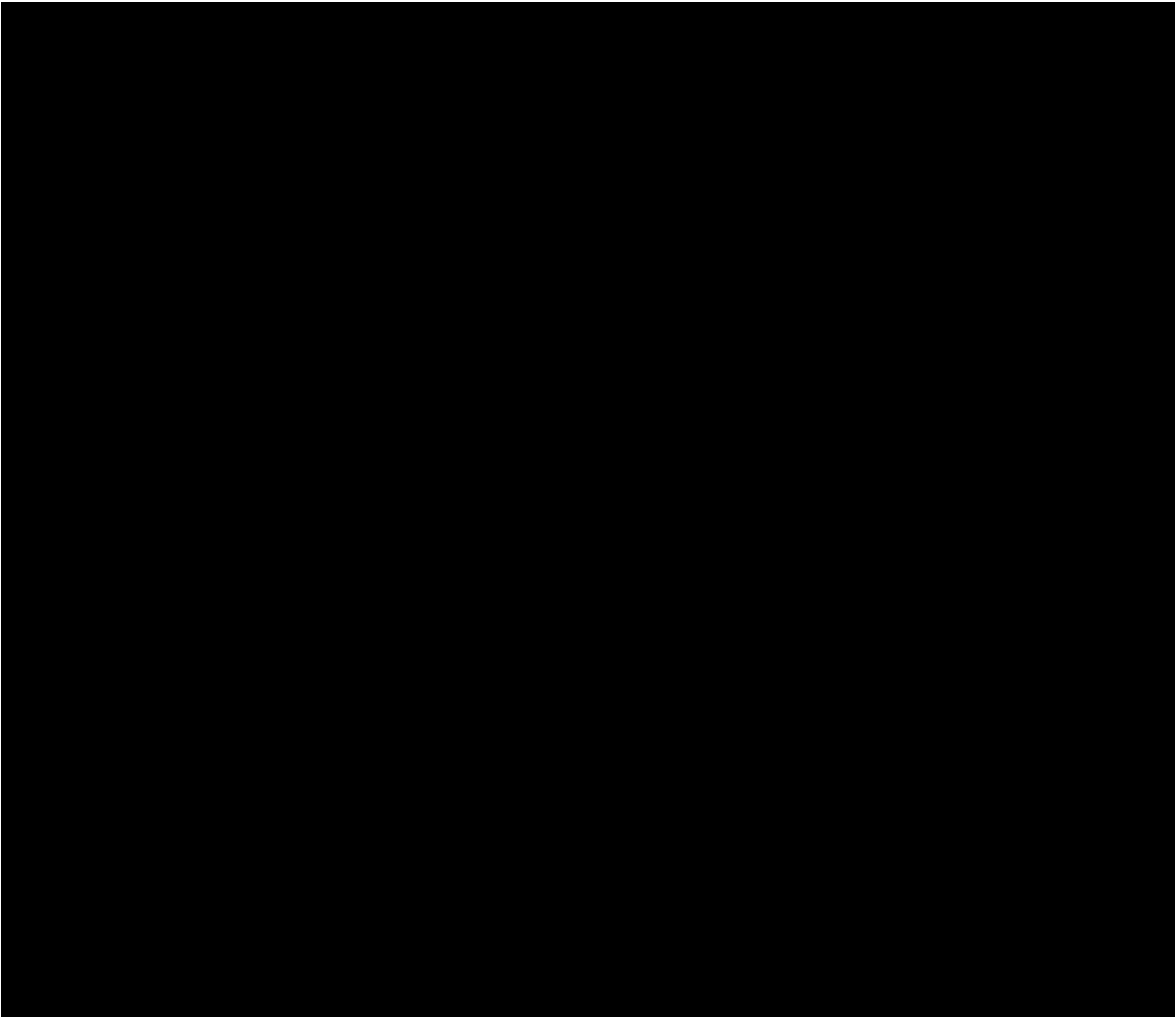






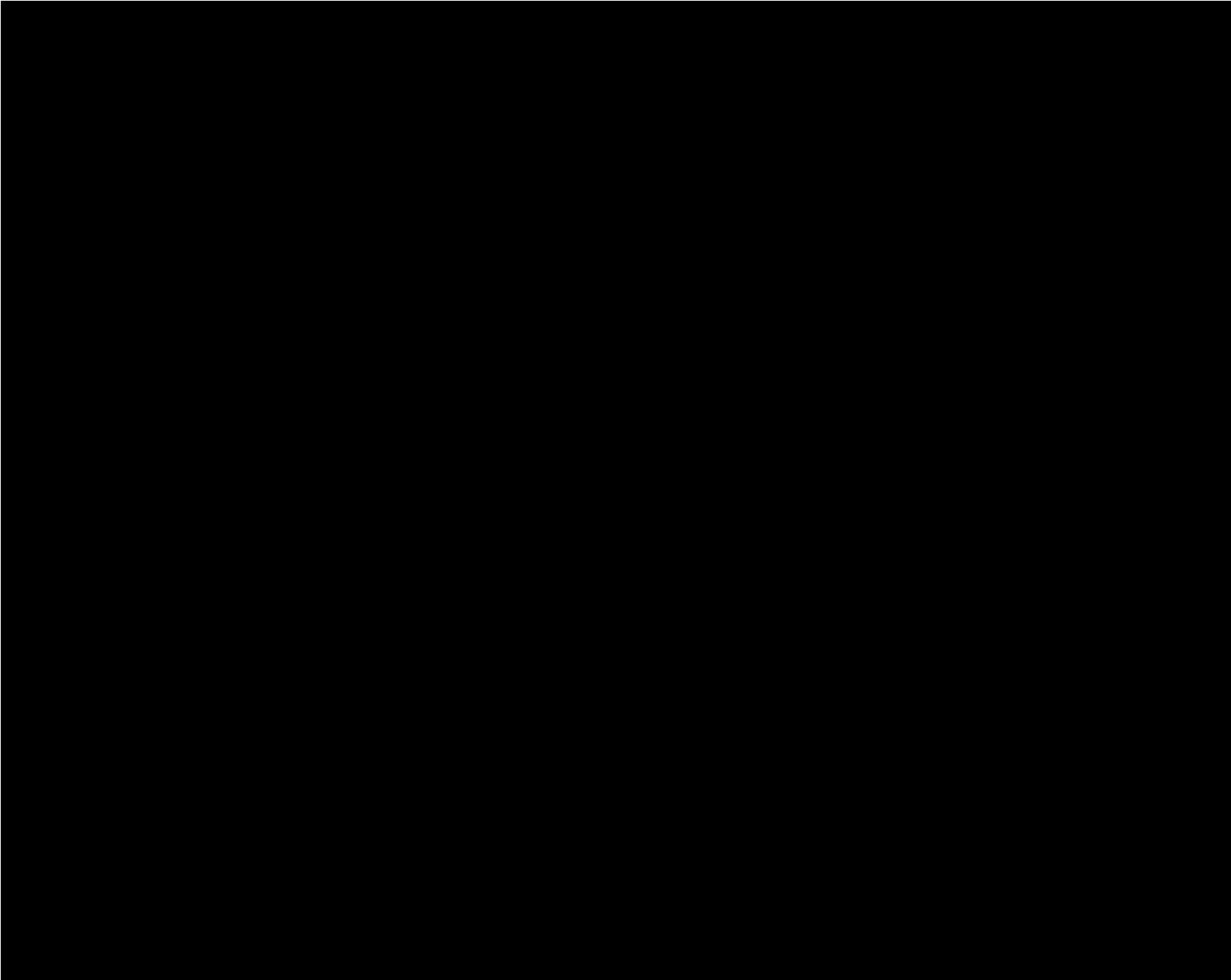


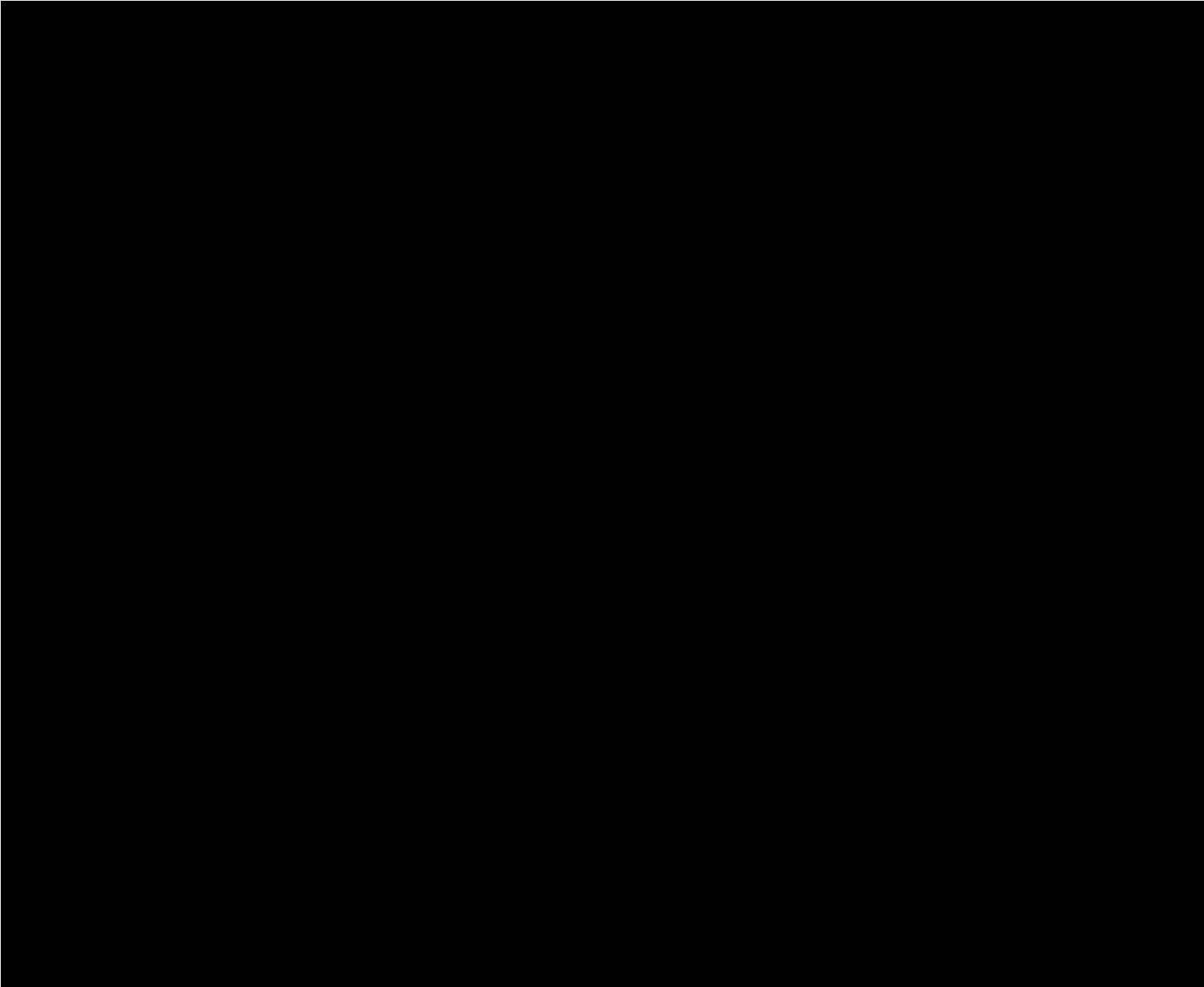














**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

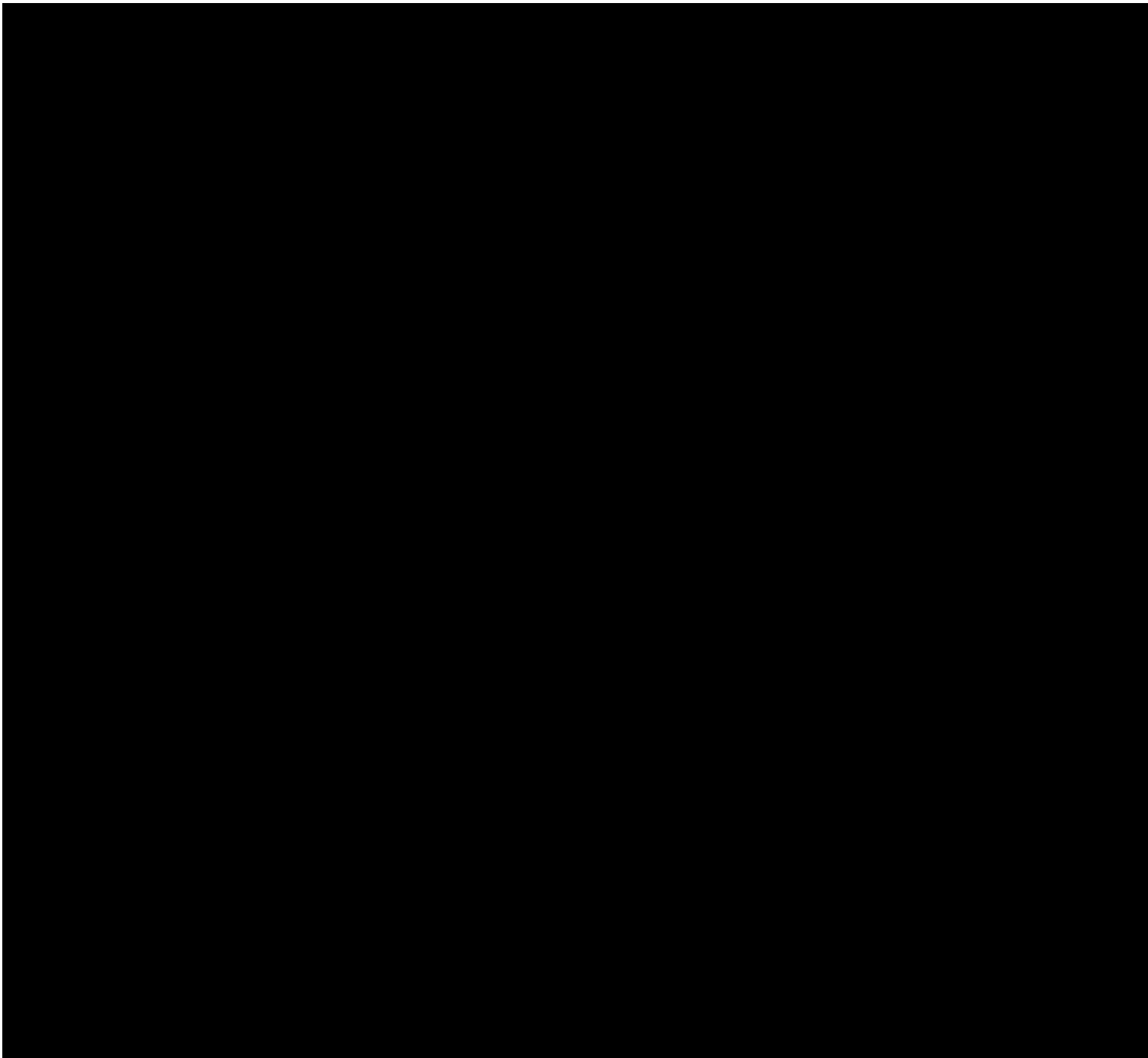
For the mark COHIBA

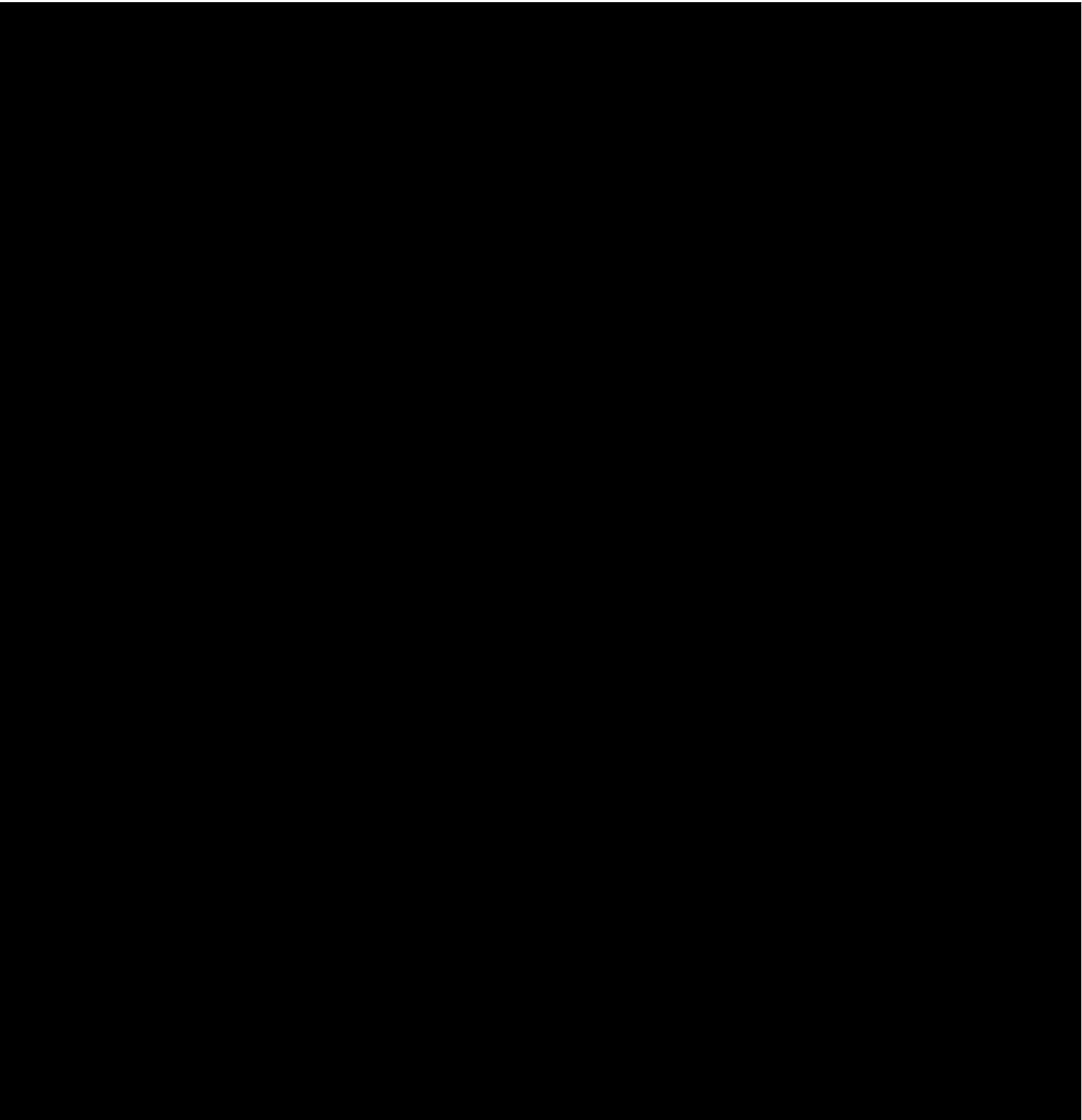
Date registered: June 6, 1995

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EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----		X

PARTY OFFERING: PETITIONER

**Exhibit 7 to the TTAB Discovery Deposition Transcript of  
Augustin Martinez, III, dated September 28, 2017**





**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

Date registered: June 6, 1995

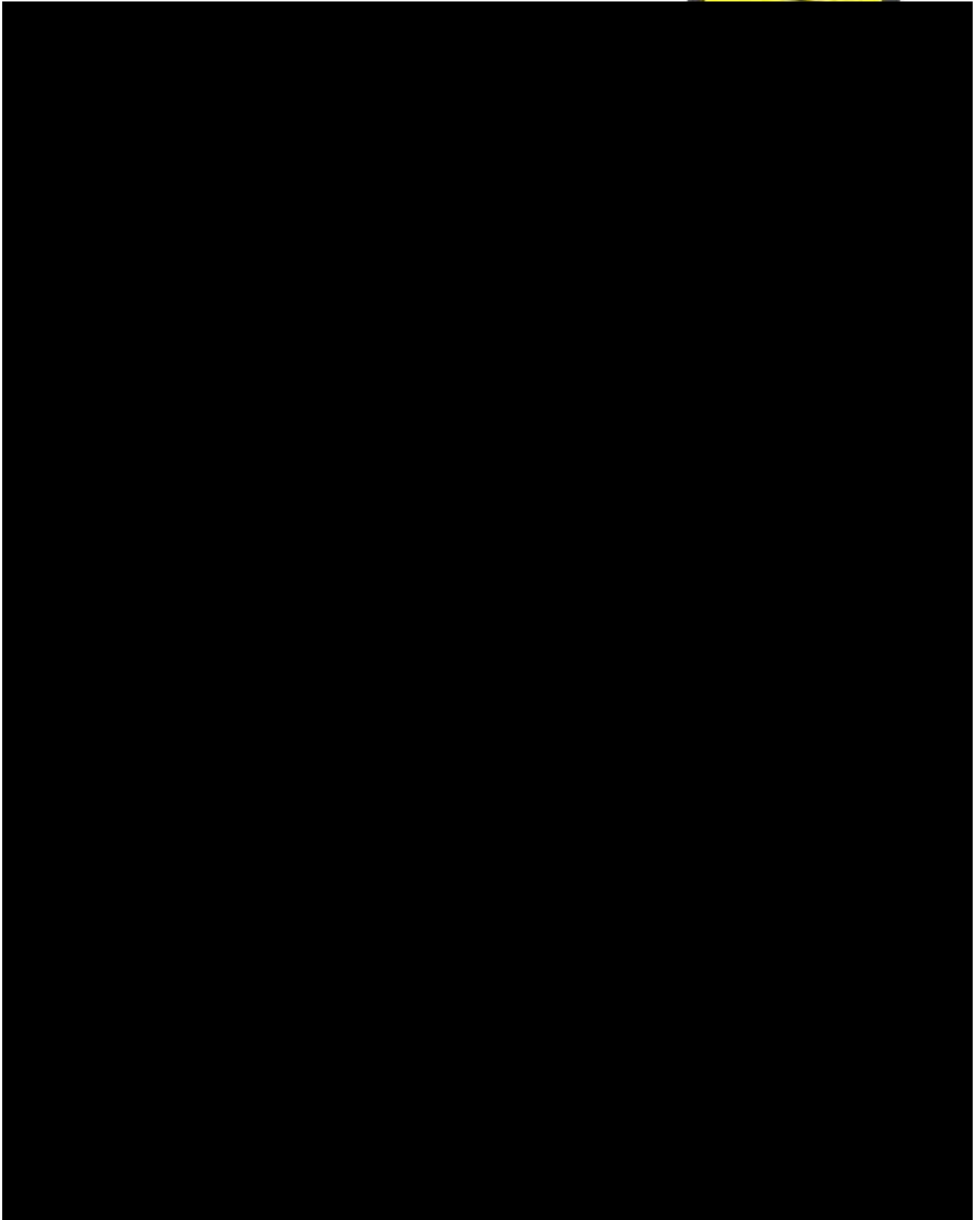
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EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
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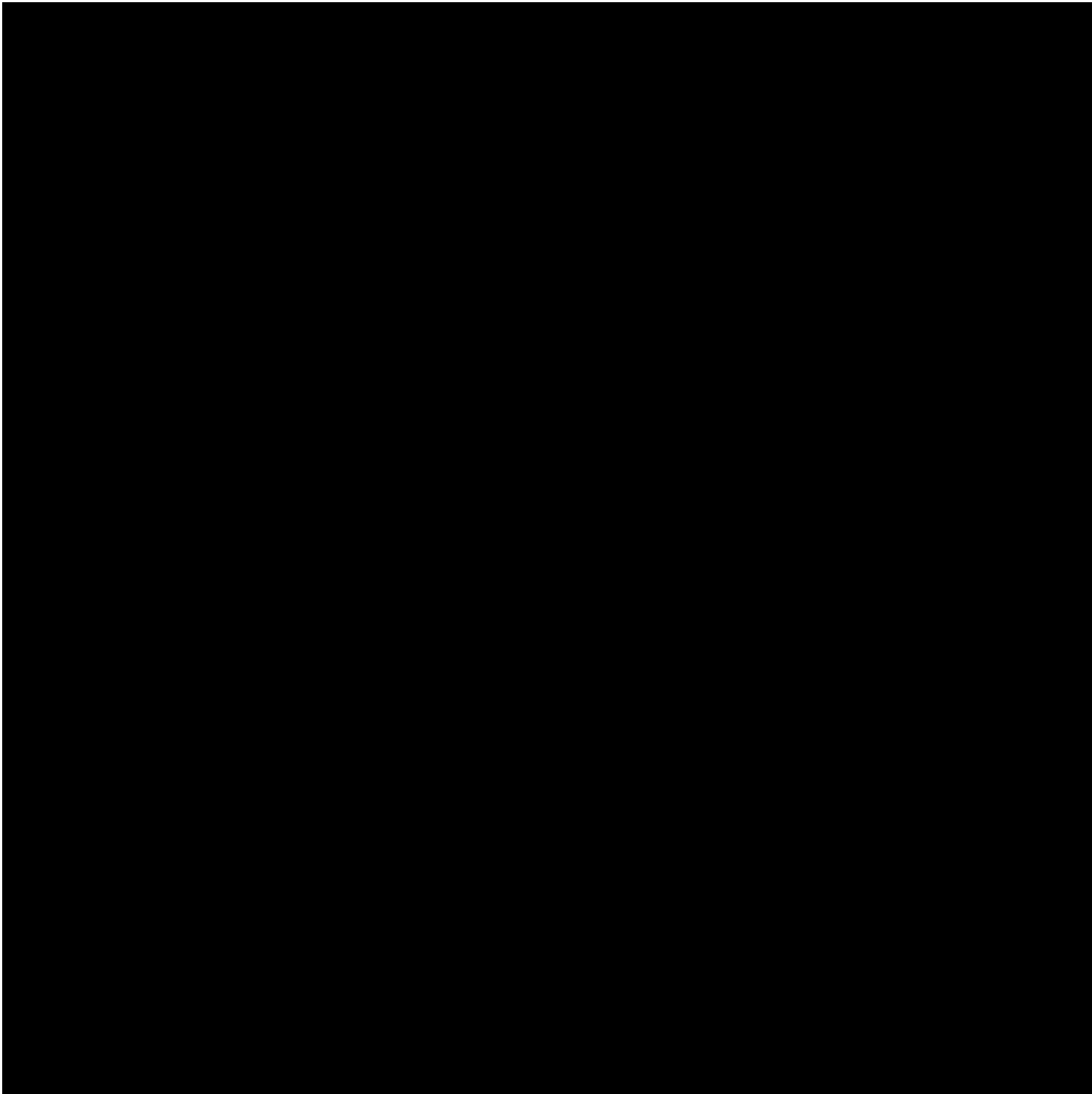
PARTY OFFERING: PETITIONER

**Exhibit 8 to the TTAB Discovery Deposition Transcript of  
Augustin Martinez, III, dated September 28, 2017**



9/28/11  
EXHIBIT 25  
MARTINEZ  
8





**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

Date registered: June 6, 1995

-----	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----	X	

PARTY DESIGNATION: See Exhibit Cover Sheets

**Designated TTAB Discovery Deposition Transcript of  
Augustin Martinez, III, dated September 28, 2017  
Part 2 of 2**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

Date registered: June 6, 1995

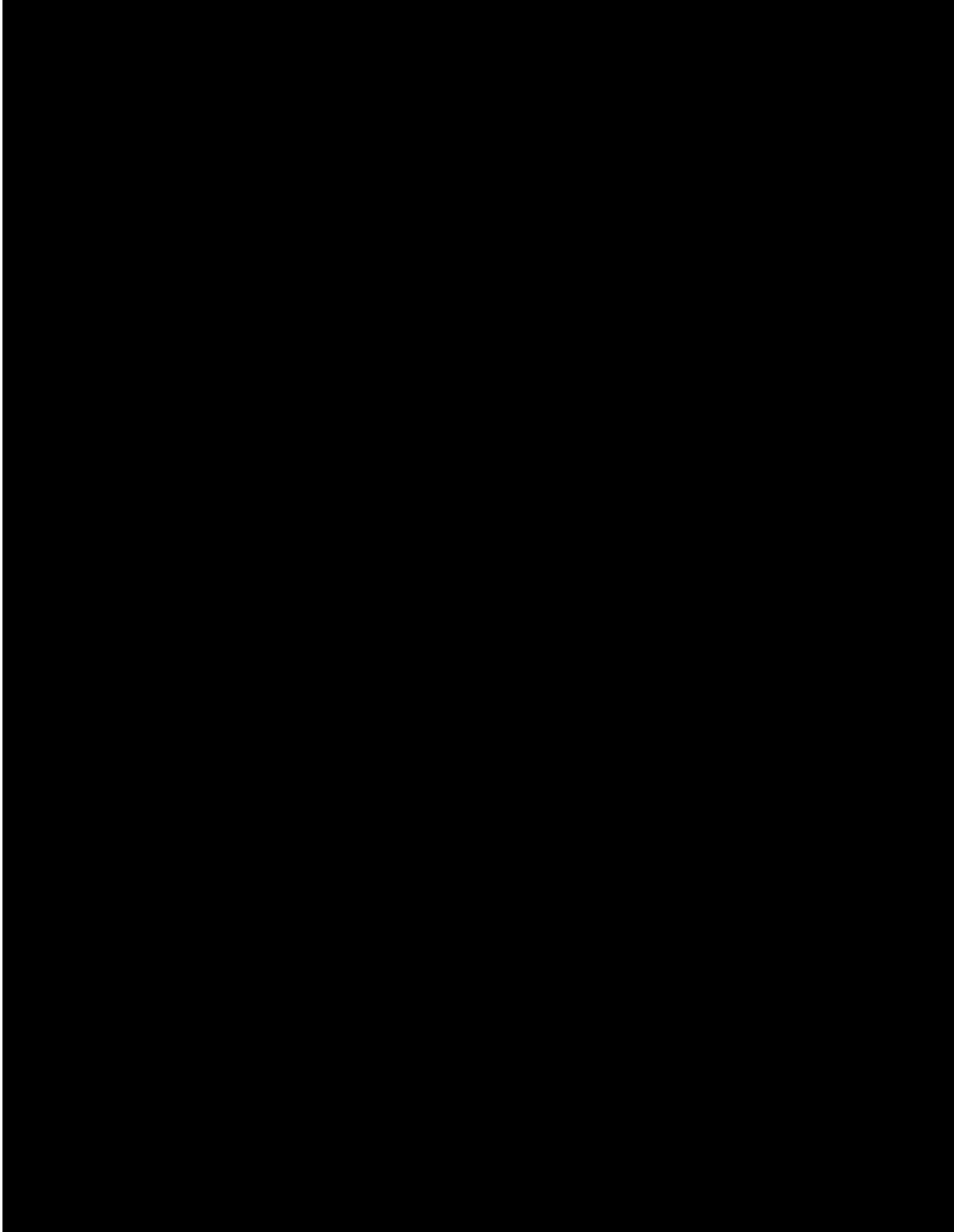
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EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
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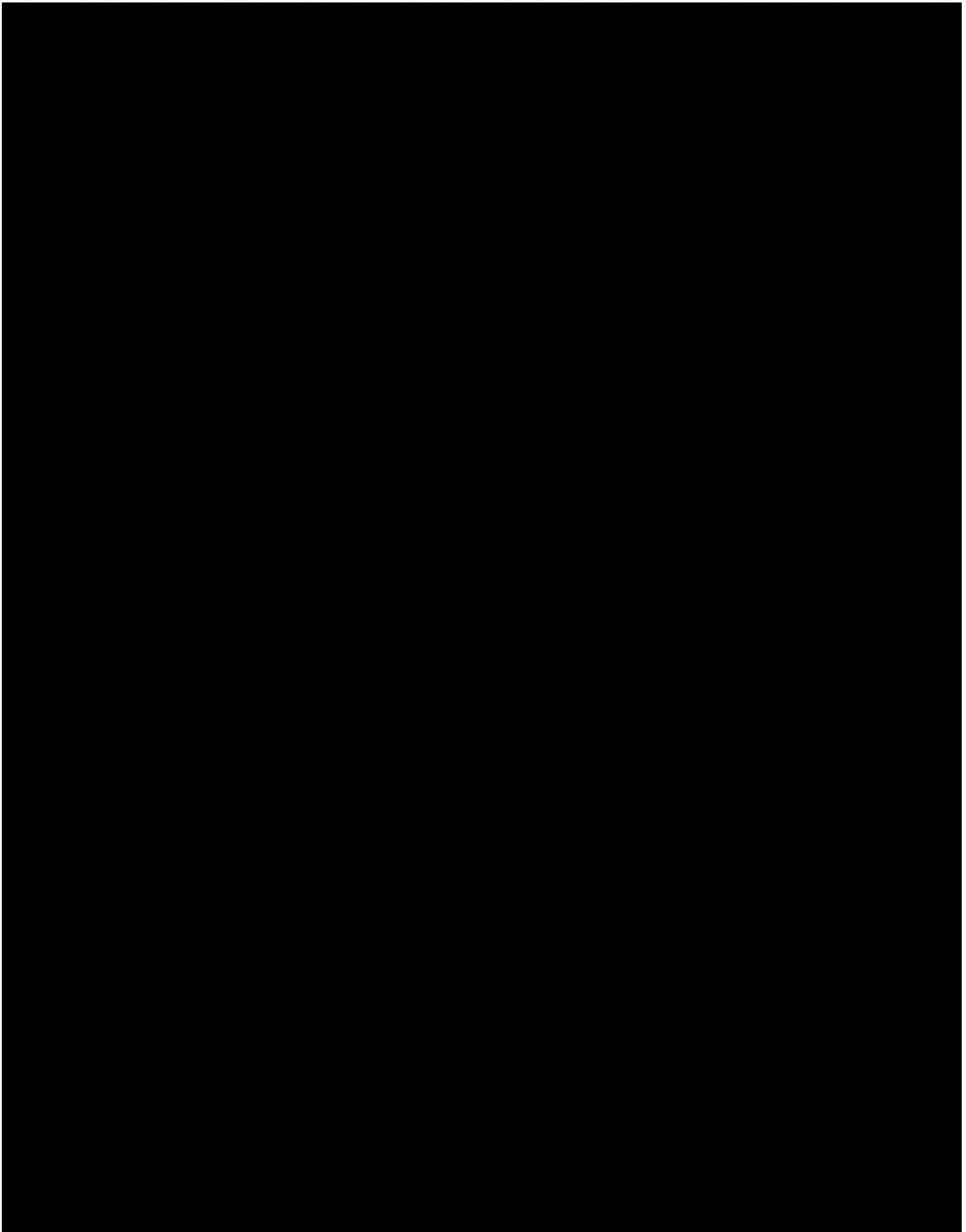
PARTY OFFERING: PETITIONER

**Exhibit 9 to the TTAB Discovery Deposition Transcript of  
Augustin Martinez, III, dated September 28, 2017**

























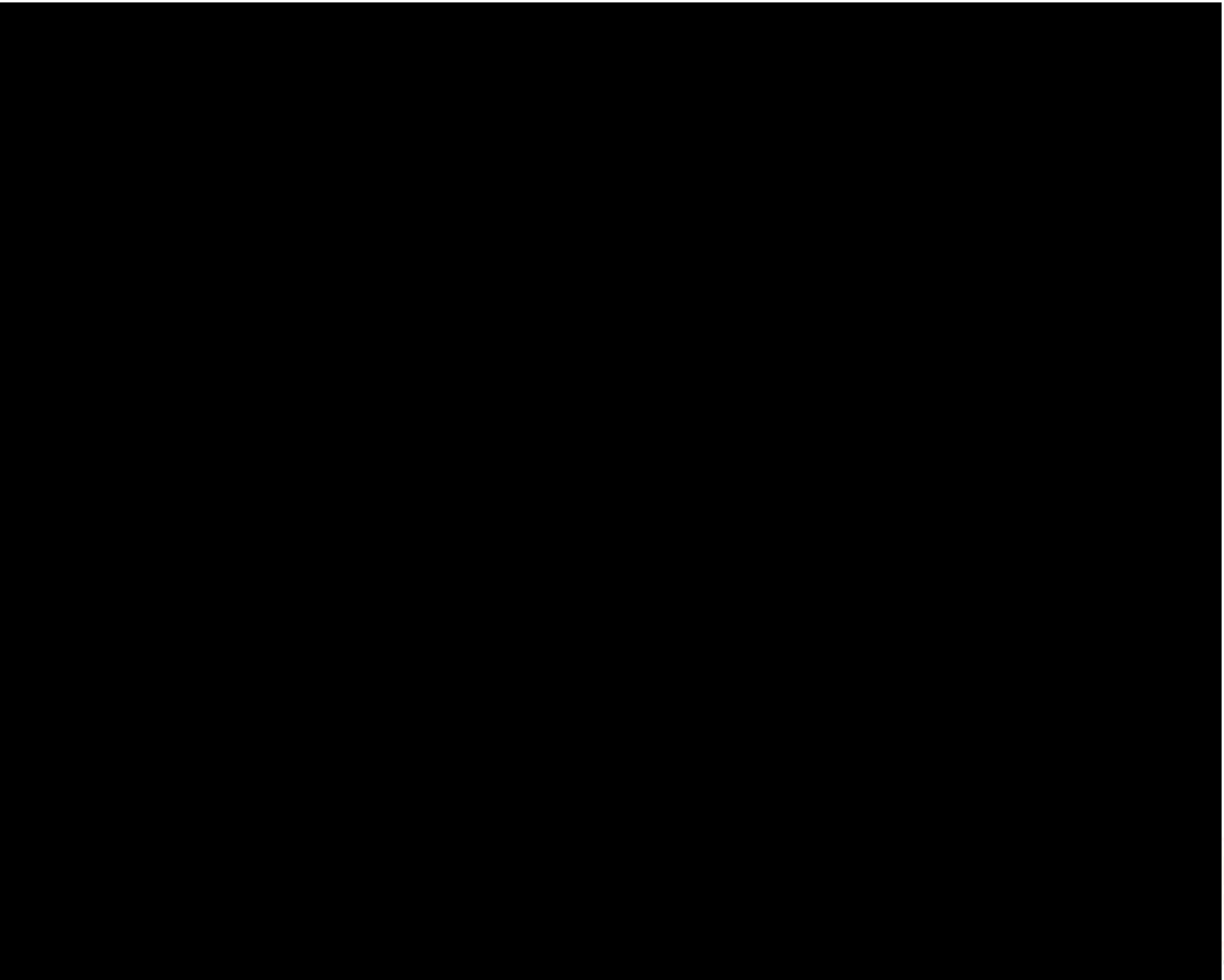


















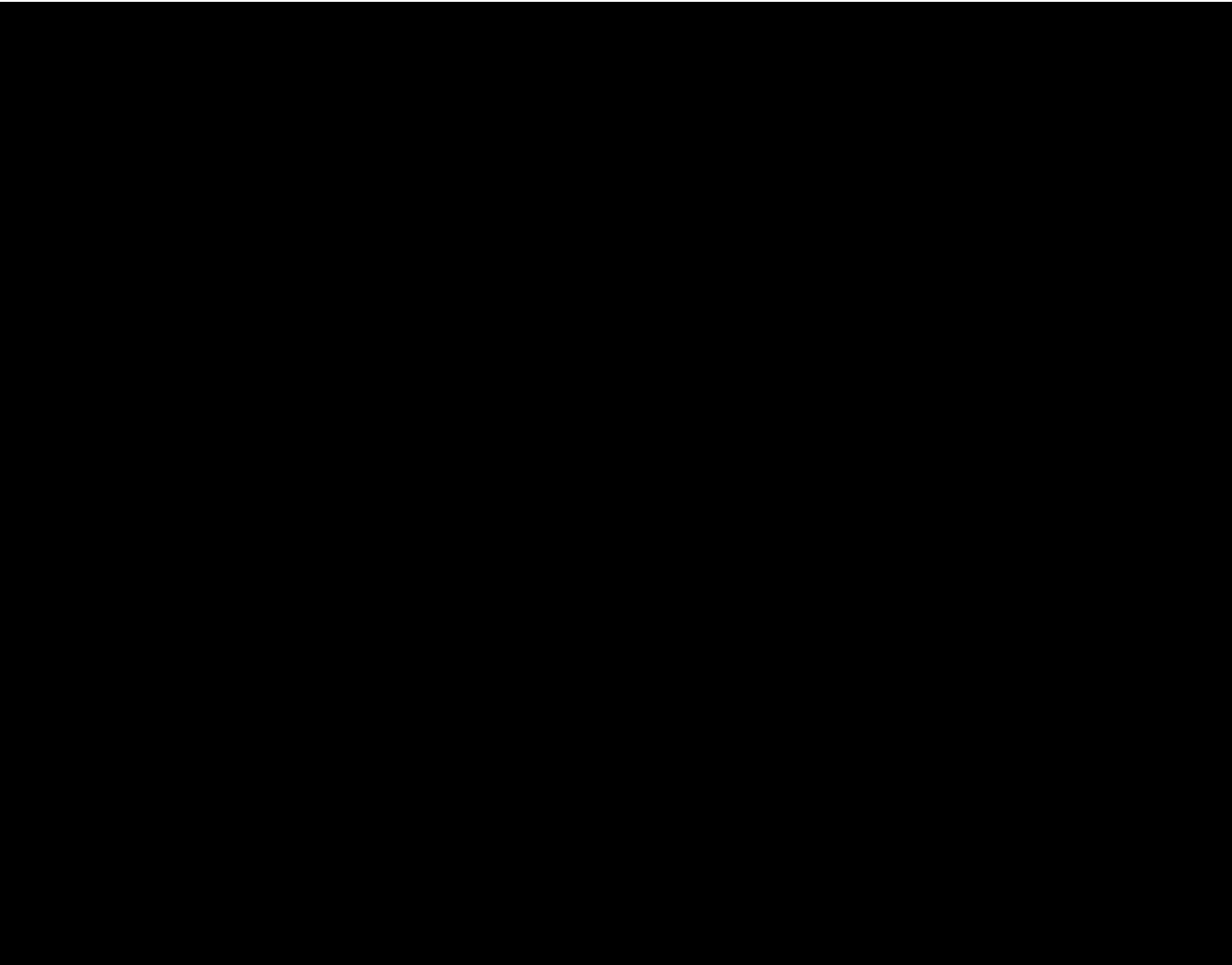














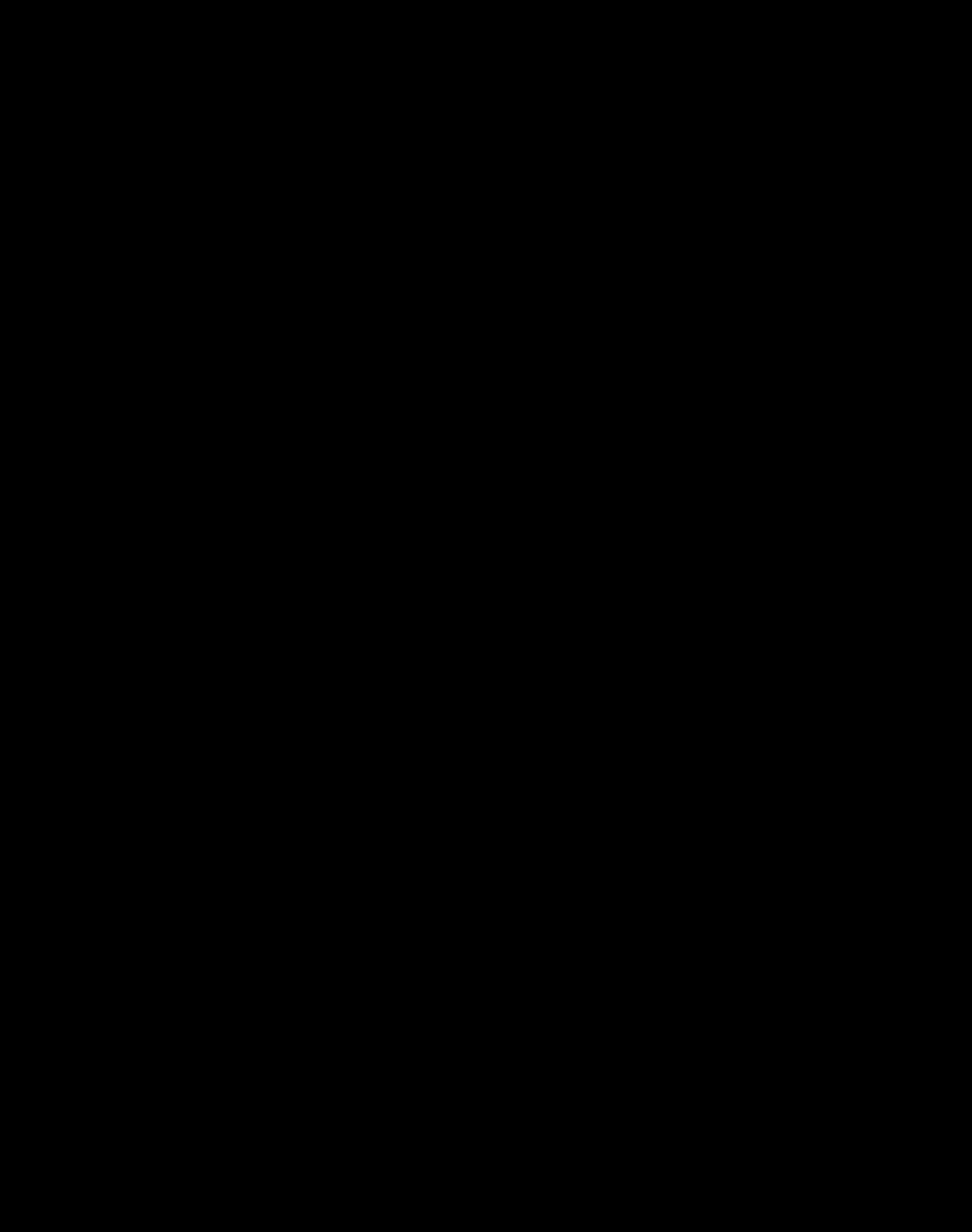
















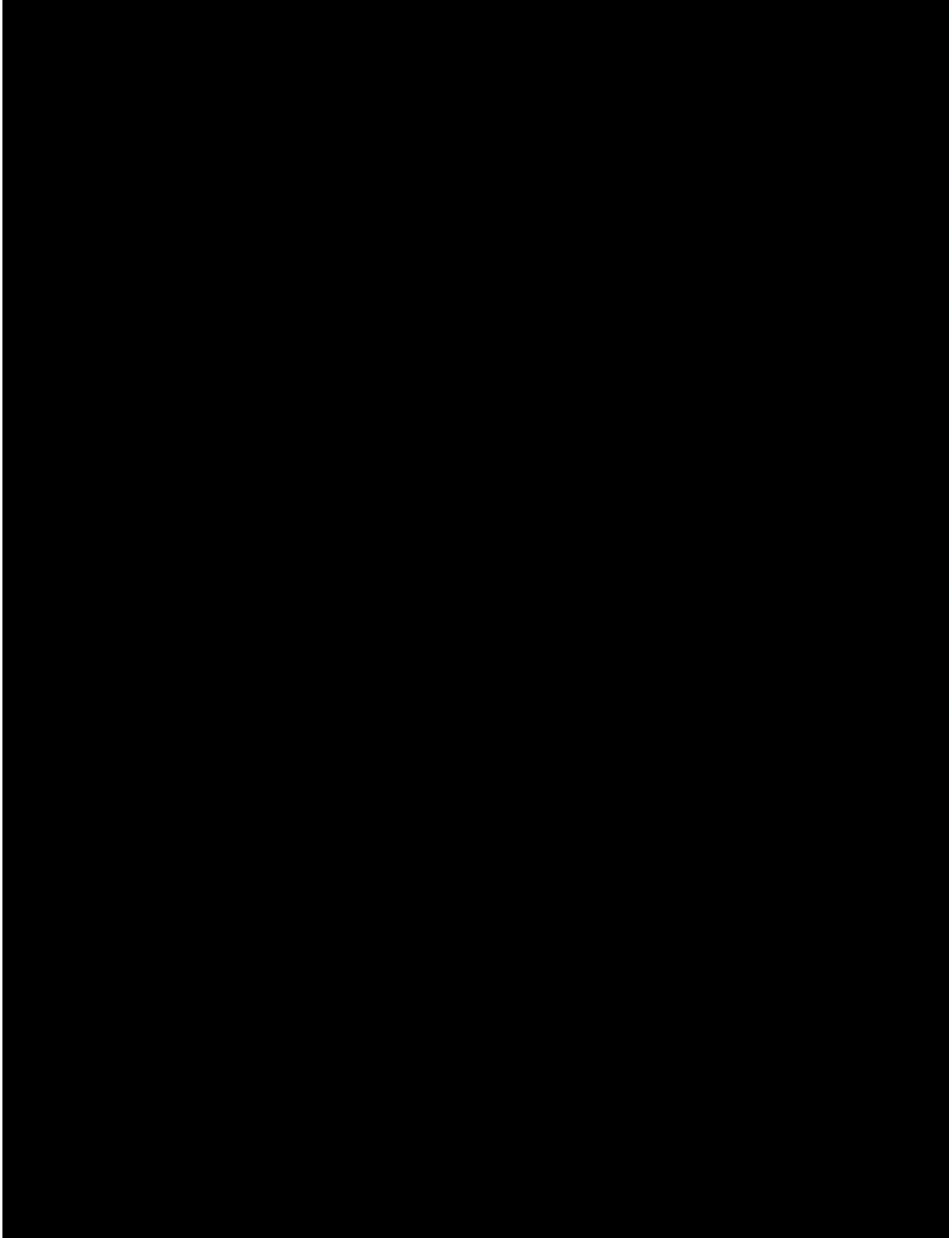




















**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

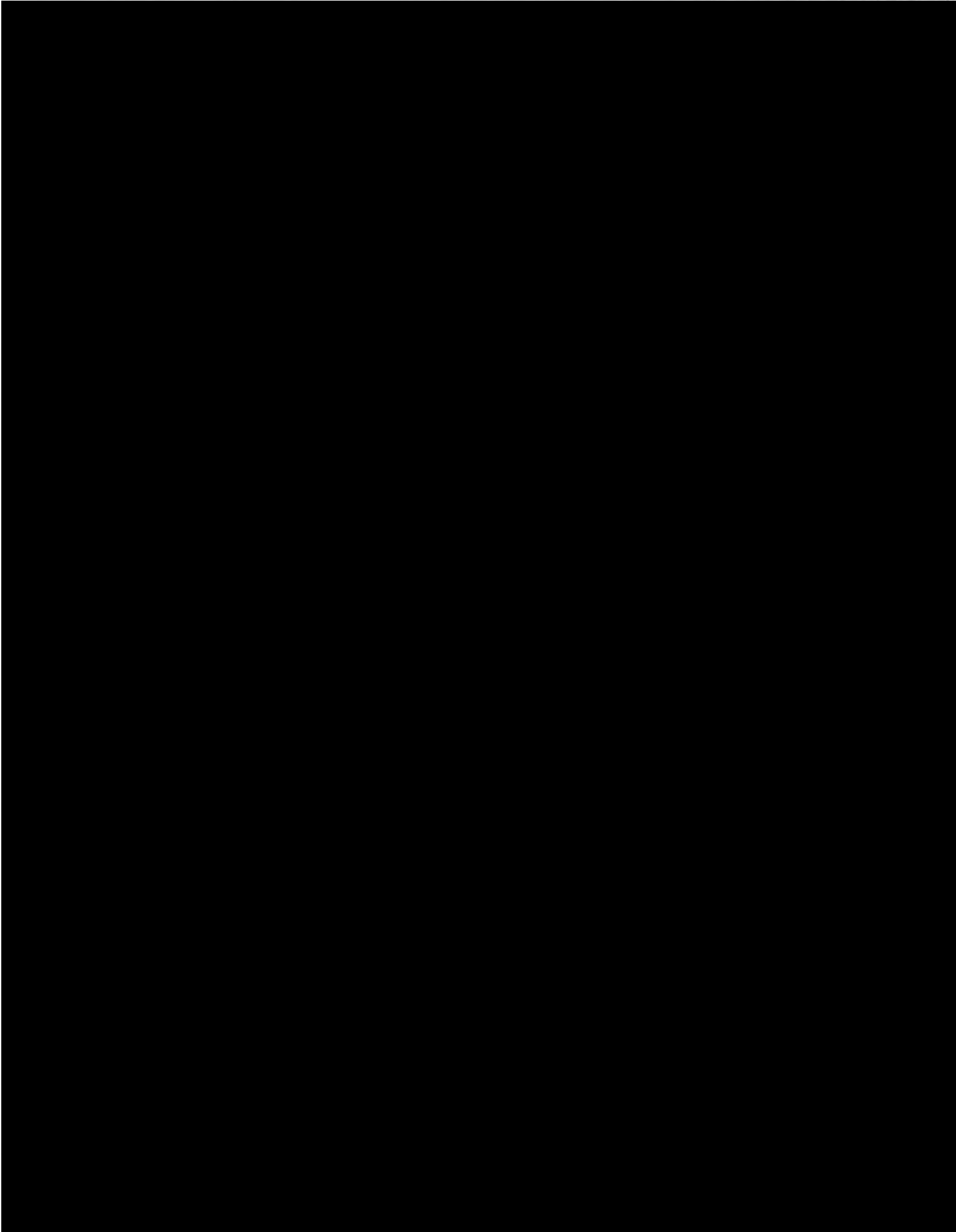
For the mark COHIBA

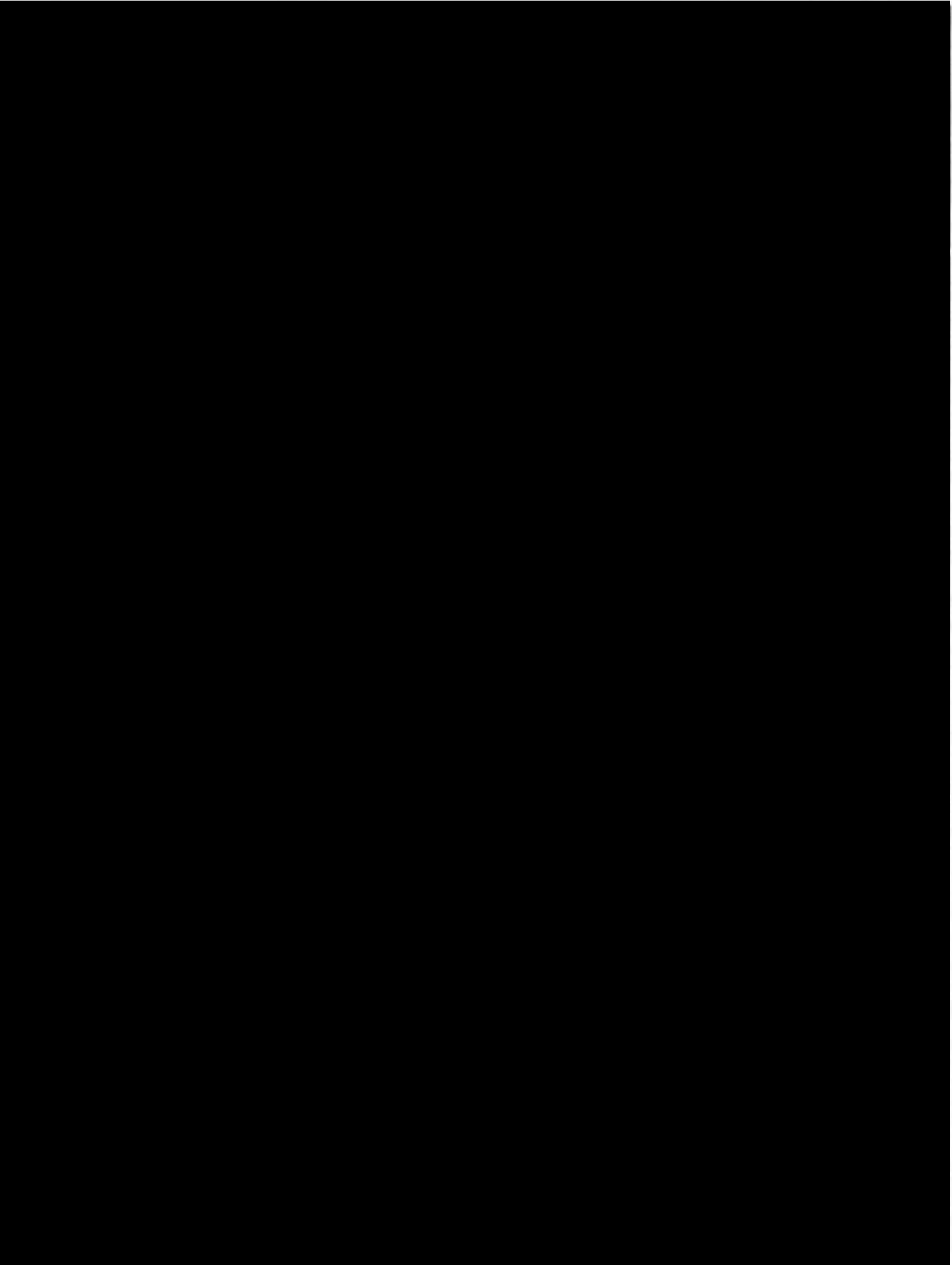
Date registered: June 6, 1995

-----		X
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----		X

PARTY OFFERING: PETITIONER

**Exhibit 10 to the TTAB Discovery Deposition Transcript of  
Augustin Martinez, III, dated September 28, 2017**

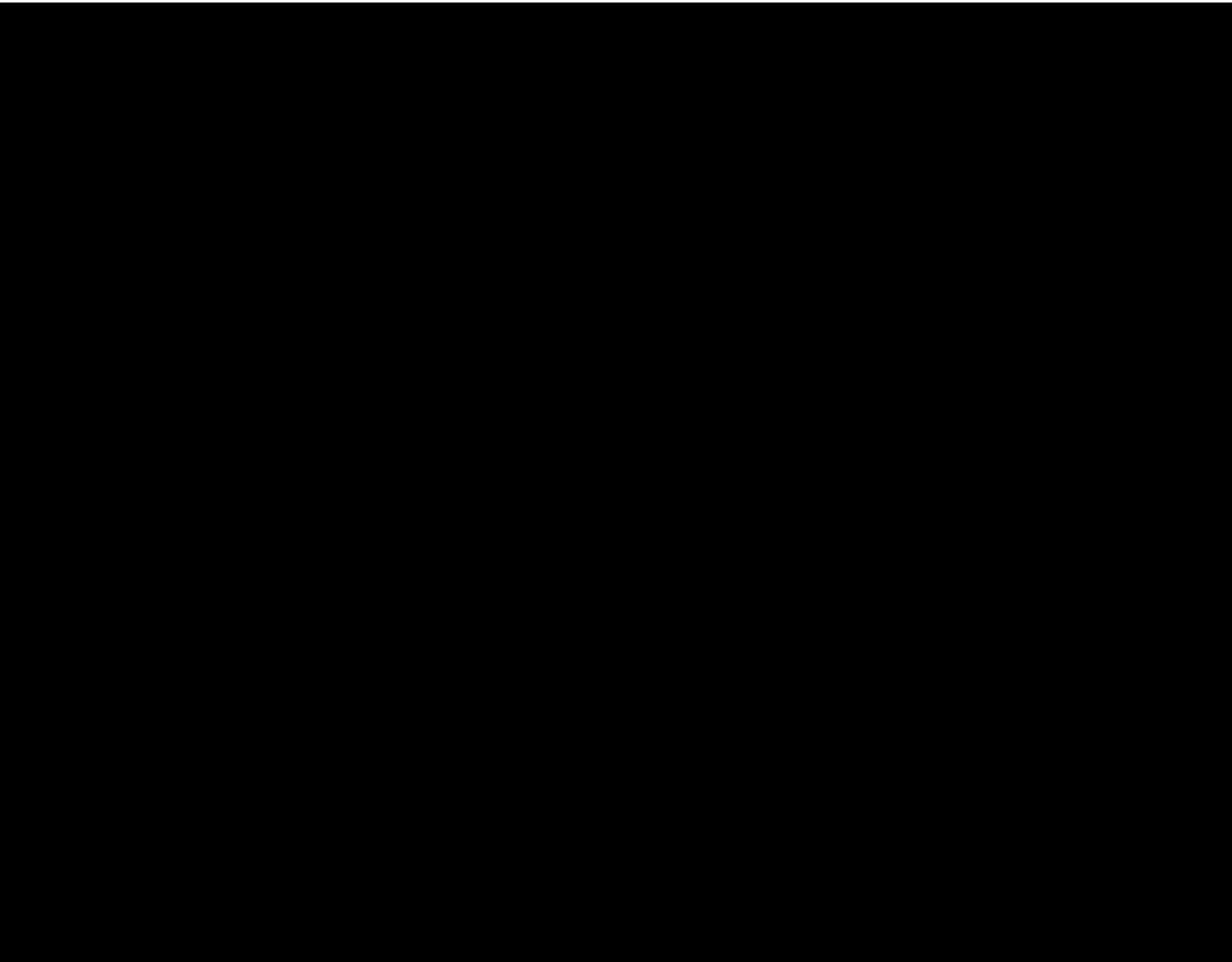






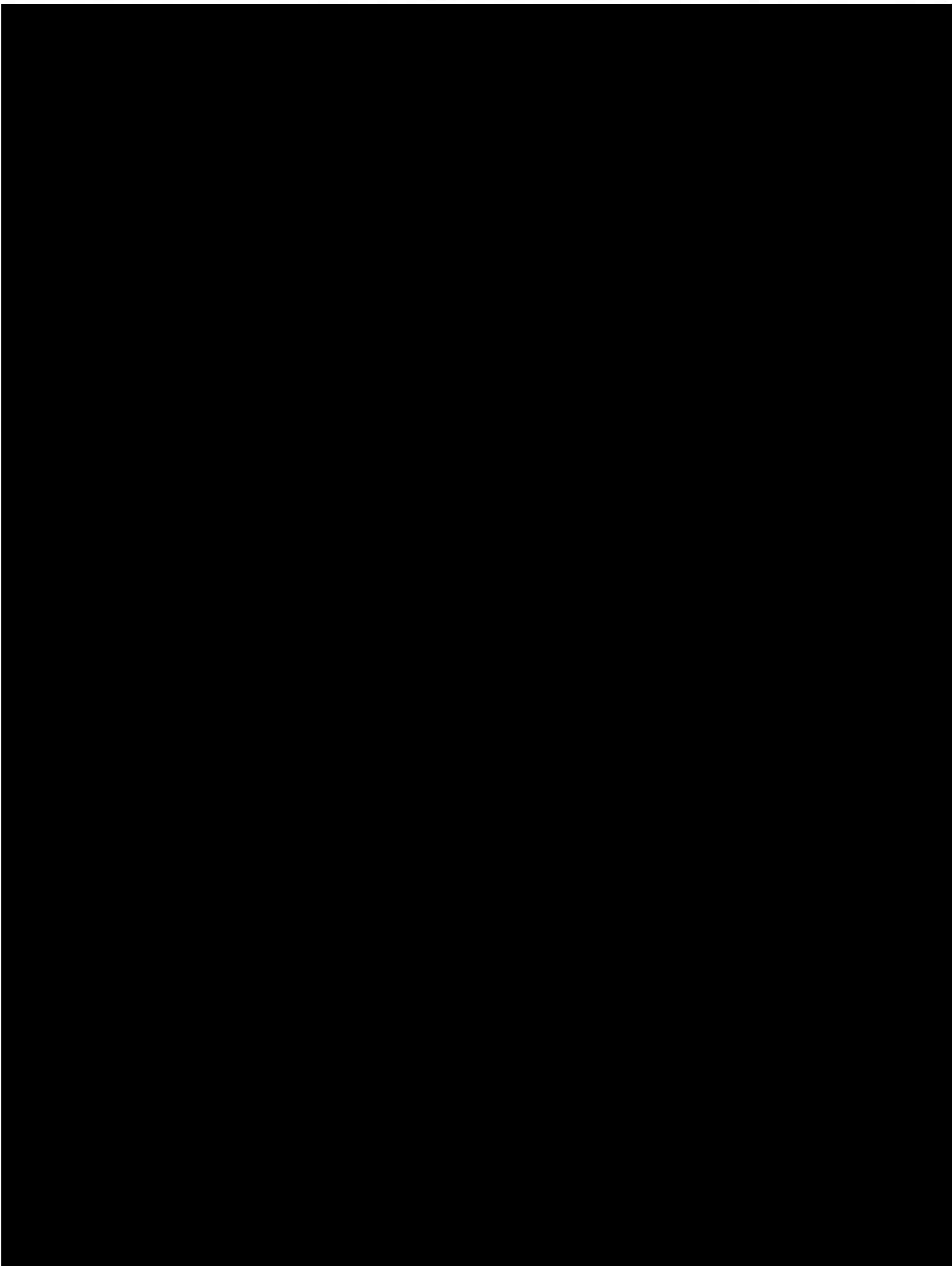
























**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

Date registered: June 6, 1995

-----		X
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----		X

PARTY OFFERING: PETITIONER

**Exhibit 12 to the TTAB Discovery Deposition Transcript of  
Augustin Martinez, III, dated September 28, 2017**

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STORY

Founded in 1496

HOUSE RULES

CONTACT DETAILS

This page provides a place to discuss the Cohiba brand, our family of products and news. The following guidelines are designed to help provide a quality environment for our fans. Please take a minute to read them and keep them in mind whenever you participate.

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## BUSINESS INFO

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## MORE INFO

## About

The most iconic name in luxury cigars. Cohiba exemplifies style and sophistication. Cohiba is the must-have for any dedicated cigar connoisseur.

## Company Overview

One of the world's most recognizable luxury names. Cohiba remains a must-have for any dedicated cigar connoisseur. Developed in the Dominican Republic by Diaz y... See more

## Products

The most iconic name in luxury cigars. Cohiba exemplifies style and sophistication. Cohiba is the must-have for any dedicated cigar connoisseur. This collectio... See more

## Company

## STORY

## HOUSE RULES

This page provides a place to discuss the Cohiba brand, our family of products and news. The following guidelines are designed to help provide a quality environment for our fans. Please take a minute to read them and keep them in mind whenever you participate.

Note: while we are glad to hear from everyone, it is important to note that postings by fans to the Cohiba Facebook page do... See more

## Milestones

- 2008 Cohiba Puro Dominicana is introduced
- 2006 Cohiba Black arrives
- 1991 The debut of Cohiba XV
- 1982 Cohiba goes worldwide
- 1978 General Cigar crafts the Dominican Cohiba cigar
- 1496 Founded in 1496

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cigar connoisseur.

**Company Overview**

One of the world's most recognizable it remains a must-have for any dedicated. Developed in the Dominican Republic

**Products**

The most iconic name in luxury cigars, and sophistication. Cohiba is the must cigar connoisseur. This collectio... See

**Company**

2008

Cohiba Puro Dominicana is introduced

**Cohiba**

2008



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**Cohiba Puro Dominicana is introduced**

2008

As a tribute to the discovery of Cohiba in Santa Domingo. General Cigar introduces Cohiba Puro Dominicana, a Cohiba made solely with Dominican tobaccos blended to create the perfect smoking experience.



50

3 Cor Chat (Off)





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As a tribute to the discovery of Cohiba in Santa Domingo, General Cigar introduces Cohiba Puro Dominicana, a Cohiba made solely with Dominican tobaccos blended to create the perfect smoking experience.



50

3 Comments

[View 1 more comment](#)**Robert Braxton** HIBS MY FAVORIT!!!!!!!25 July 2012 at 22:32 [Like](#)**Raif Yazicigil** I do26 July 2012 at 05:45 [Like](#)[Write a comment](#)

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12:50 PM  
6/6/2017

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### Company Overview

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### Products

The most iconic and sophisticated cigar connoisseur

### Company

Cohiba Black arrives

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XV

de

the Dominican Cohiba

Cohiba Black arrives

2006

The highly acclaimed Cohiba Black is introduced. This rich and complex cigar features a dark maduro wrapper and aged Dominican Piloto binder.



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**COHIBA**

cigar connoisseur

Company



Cohiba Black arrives

2006

The highly acclaimed Cohiba Black is introduced. This rich and complex cigar features a dark maduro wrapper and aged Dominican Piloto binder.



28

1 Comment

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Dave Pipher have to sample those in cuba in the new year..

26 July 2012 at 00:14 Like

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12:50 PM  
6/6/2017

CT0033031



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**COHIBA**

One of the world's most recognizable luxury names, Cohiba remains a must-have for any dedicated cigar connoisseur. Developed in the Dominican Republic by Diaz y... See more

1991

The debut of Cohiba XV

Products

The most iconic name and sophistication. Cigar connoisseur. Th

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1991

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The debut of Cohiba XV

1991

Cohiba XV is introduced. With the XV standing for "Extra Vigoroso," this full-bodied cigar is among the most sought after Cohibas available and is made only in limited quantities.



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## The debut of Cohiba XV

1990

Cohiba XV is introduced. With the XV standing for "Extra Vigoroso," this full-bodied cigar is among the most sought after Cohibas available and is made only in limited quantities.



12

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Nedyalkovski Cveta

25 July 2012 at 17:52

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**Company**



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1982

**Cohiba goes worldwide**

1982

Cohiba cigars are introduced worldwide, with the exception of the United States. The introduction features three sizes: Panatela, Corona Especial and Lancero.



13

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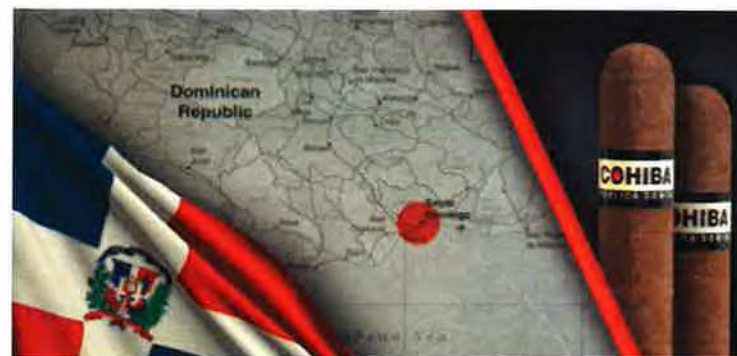
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## General Cigar crafts the Dominican Cohiba cigar

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1496

Founded in 1496

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1496

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Founded in 1496

1496

Christopher Columbus makes his second voyage west. It's on this expedition that he and his crew hear the word "Cohiba" for the first time. The Taino Indians, the natives of Santa Domingo, use it to refer to the cured leaves of tobacco that they grow and smoke for pleasure.



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**About**

The most iconic name in luxury cigars, Cohiba exemplifies style and sophistication. Cohiba is the must-have for any dedicated cigar connoisseur.

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One of the world's most recognizable luxury names, Cohiba remains a must-have for any dedicated cigar connoisseur. Developed in the Dominican Republic by Diaz y Cia in 1978 (nearly five centuries after Columbus landed on the shores of the modern-day D.R. to find the natives smoking tobacco leaves they called "cohiba"), the brand was first made by General Cigar in the 1980s. The U.S. version of Cohiba is the only Cohiba brand that can be purchased legally in the United States; it remains peerless in defining luxury premium-cigar enjoyment.

**Products**

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**Company**

This page provides a place to discuss the Cohiba brand, our family of products and news. The following guidelines are designed to help provide a quality environment for our fans. Please take a minute to read them and keep them in mind whenever you participate.

Note: while we are glad to hear from everyone, it is important to note that postings by fans to the Cohiba Facebook page do... [See more](#)

**Milestones**

- 2008 Cohiba Puro Dominicana is introduced
- 2006 Cohiba Black arrives
- 1991 The debut of Cohiba XV
- 1982 Cohiba goes worldwide
- 1978 General Cigar crafts the Dominican Cohiba cigar
- 1496 Founded in 1496

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**Products**

The most iconic name in luxury cigars, Cohiba exemplifies style and sophistication. Cohiba is the must-have for any dedicated cigar connoisseur. This collection of medium- to full-bodied smokes, sculpted to the highest standards, symbolizes a life of attainable elegance. Handcrafted by General Cigar in the Dominican Republic, Cohiba is a brand that deserves a place in the most carefully-curated cigar collections.

Developed in the Dominican Republic by Diaz y Cia in 1978 (nearly five centuries after Columbus landed on the shores of the modern-day D.R. to find the natives smoking tobacco leaves they called "cohiba"), the brand was first made by General Cigar in the 1980s.

Note: while we are glad to hear from everyone, it is important to note that postings by fans to the Cohiba Facebook page do not necessarily reflect the opinions of Cohiba Red Dot and its affiliates. Further, Cohiba and its affiliates do not represent the accuracy of any User Content, and do not necessarily endorse the opinions expressed on this fan page.

By using or accessing this page, you acknowledge that you are 21 years of age and agree to comply with Facebook's Terms and Conditions.

We encourage you to leave comments, photos, videos and links here, as long as they are relevant to the intent of the page and provide value to fellow fans. Please be respectful of the community as a whole.

We will review all posts and we reserve the right to remove those that do not adhere to our guidelines. We will block anyone who violates our guidelines repeatedly. Further, we will not tolerate these kinds of posts and these will be removed immediately:

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- Defamatory, offensive, obscene, vulgar or depicting violence
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- Violations of any intellectual property right

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Developed in the Dominican Republic by Díaz y Cía in 1978 (nearly five centuries after Columbus landed on the shores of the modern-day D.R. to find the natives smoking tobacco leaves they called "cohiba"), the brand was first made by General Cigar in the 1980s.

The U.S. version of Cohiba is the only Cohiba brand that can be purchased legally in the United States; it remains peerless in defining luxury premium-cigar enjoyment. In addition to the hallmark brand, Cohiba also features these fine, handcrafted expressions: Cohiba XV, Cohiba Black and Cohiba Puro Dominicana.

Note: Cohiba Cigars are made in the Dominican Republic. Never associated with the Cuban cigar sold under the same name outside the U.S. Cohiba Cigars are not made from Cuban-grown tobaccos.

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- Trolling or deliberate disruption of discussion
- Violations of any intellectual property rights
- Spamming in nature
- Uploading files that contain viruses or programs that could damage the operation of other people's computers
- Commercial solicitation or solicitation of donations
- Link baiting (embedding a link in your post to draw traffic to your own site)

## Milestones

- |      |   |
|------|---|
| 2008 | Cohiba Puro Dominicana is introduced            |
| 2006 | Cohiba Black arrives                            |
| 1991 | The debut of Cohiba XV                          |
| 1982 | Cohiba goes worldwide                           |
| 1978 | General Cigar crafts the Dominican Cohiba cigar |
| 1496 | Founded in 1496                                 |

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Date registered: February 17, 1981

AND

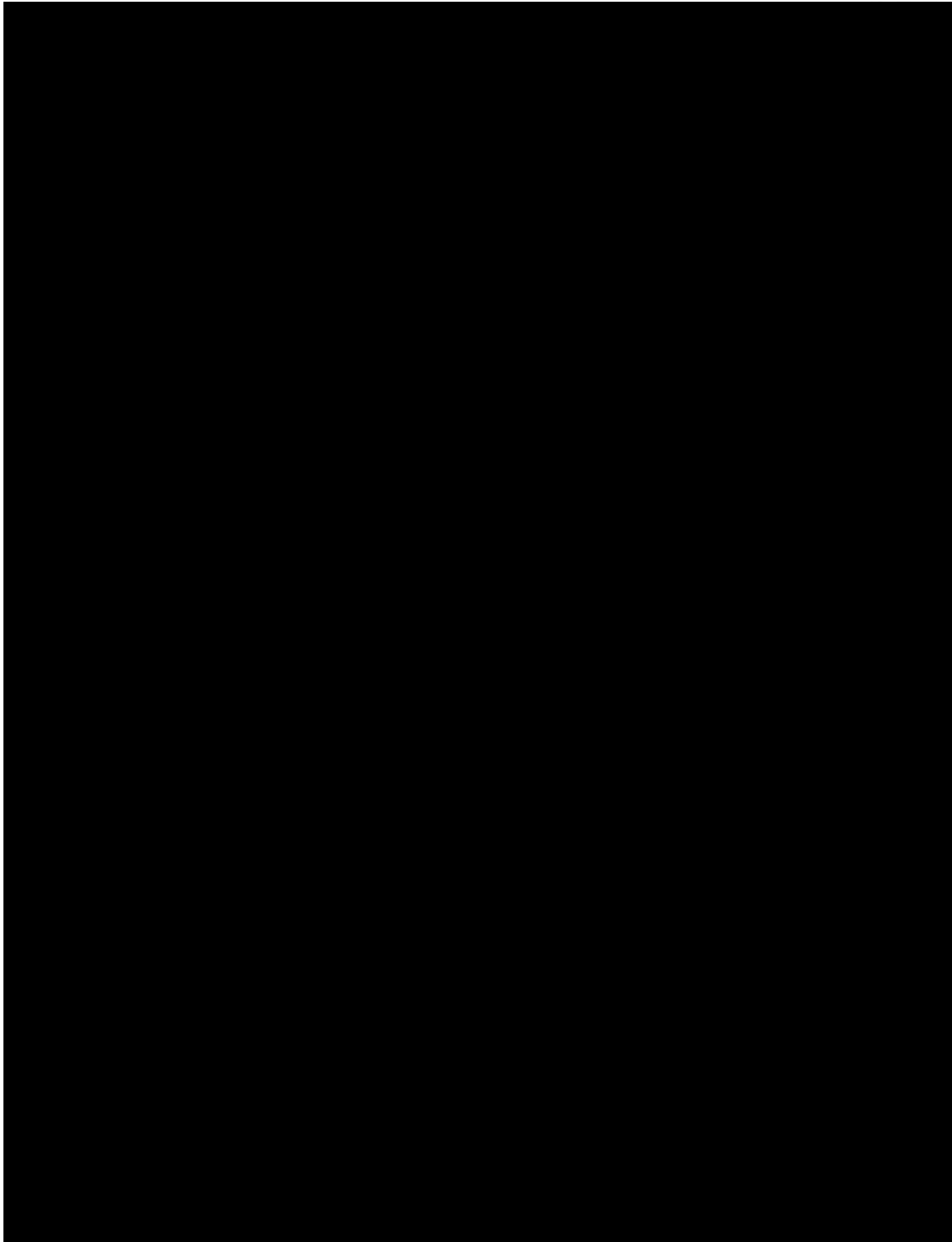
In the matter of the Trademark Registration No. 1898273  
For the mark COHIBA  
Date registered: June 6, 1995

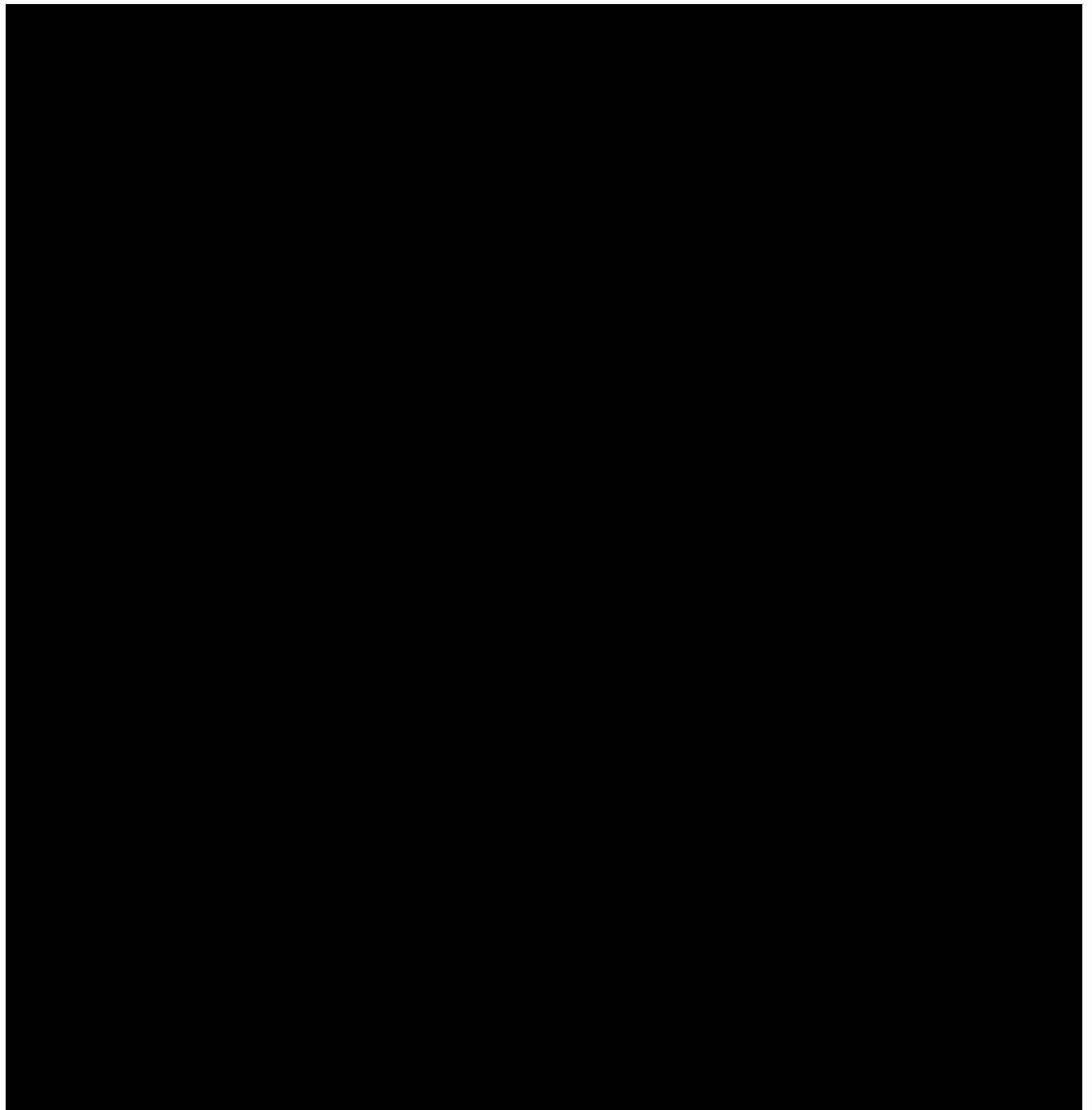
-----	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----	X	

PARTY OFFERING: PETITIONER

**Exhibit 13 to the TTAB Discovery Deposition Transcript of  
Augustin Martinez, III, dated September 28, 2017**

M #13







**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

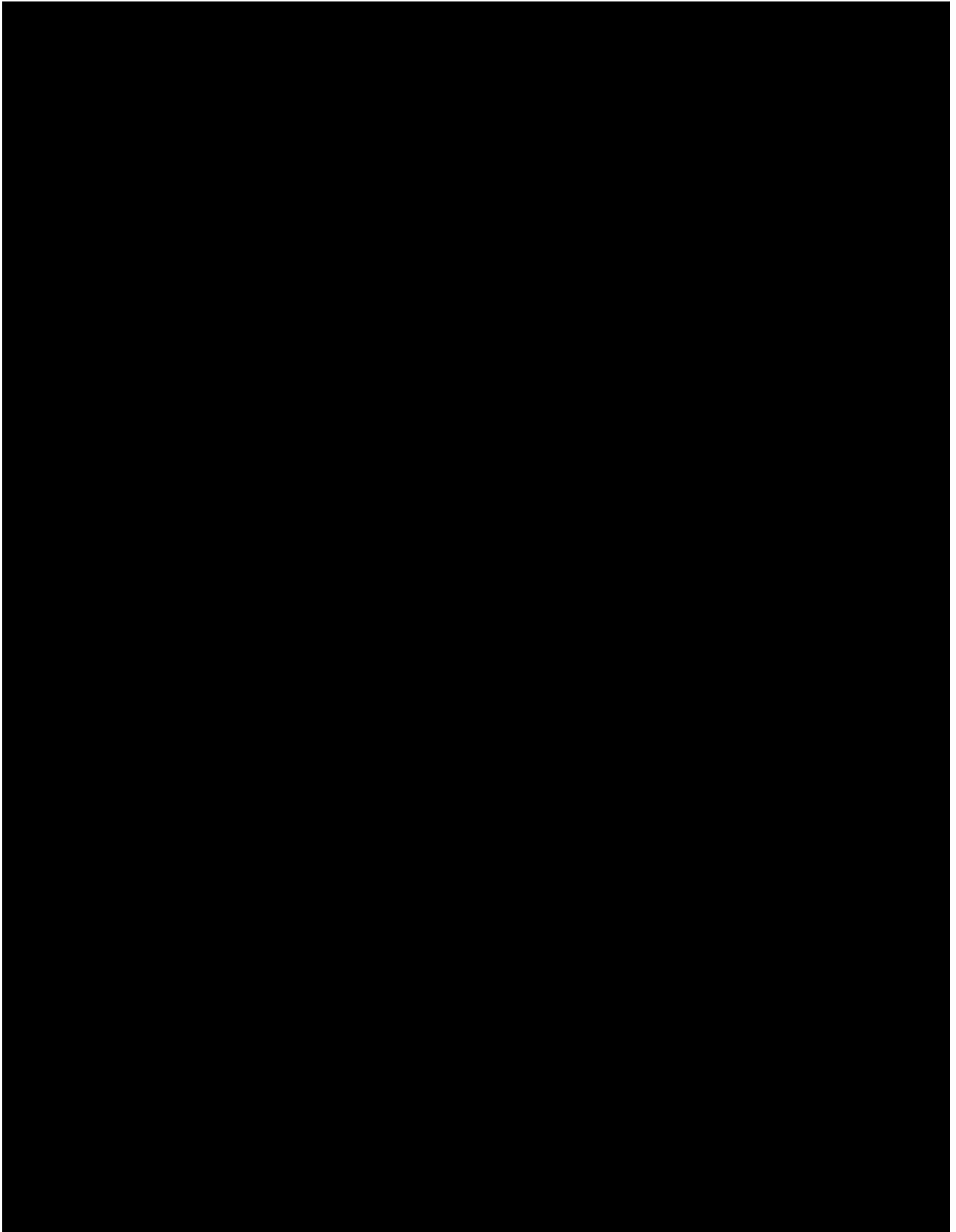
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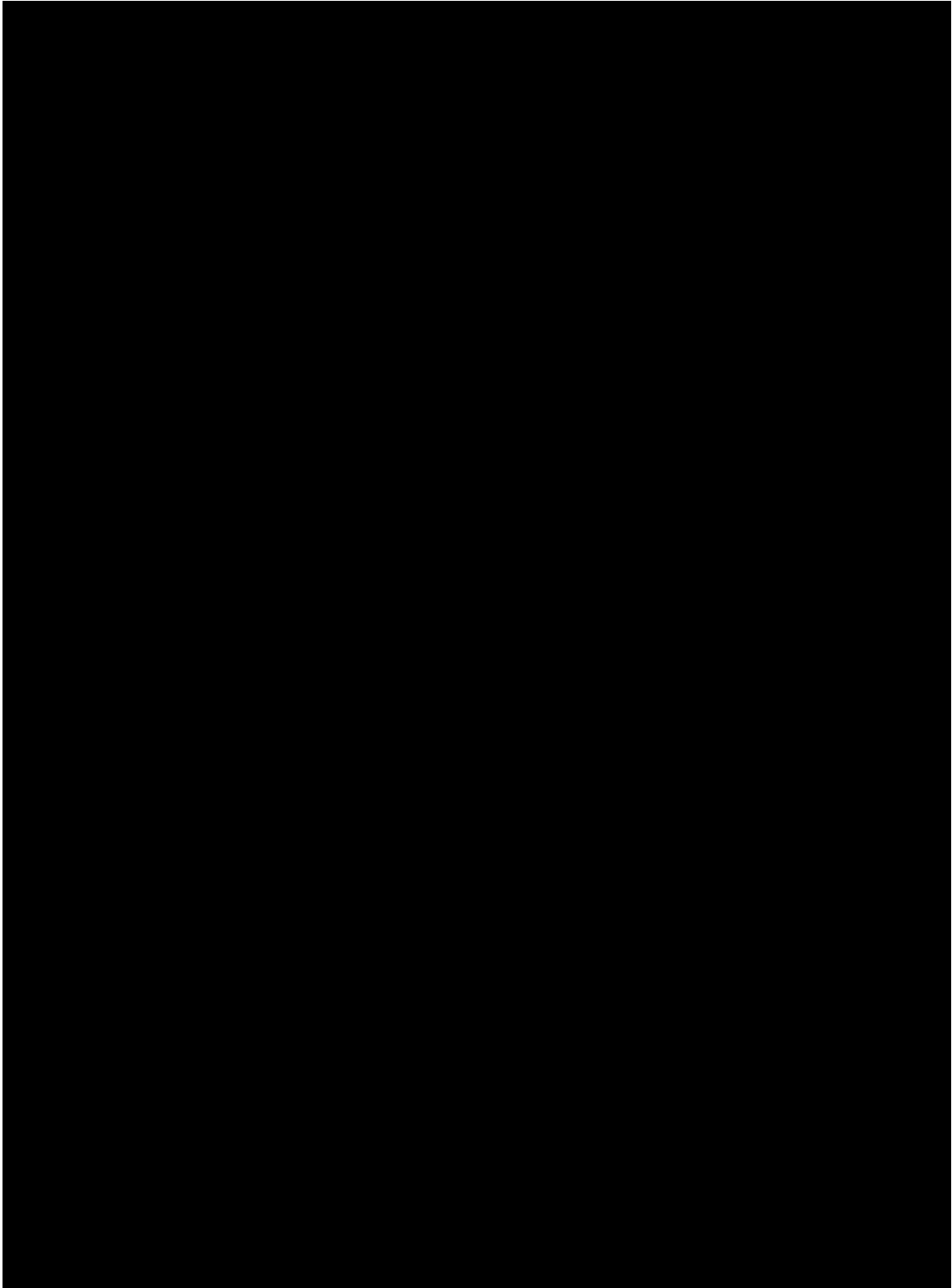
Date registered: June 6, 1995

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EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----	X	

PARTY OFFERING: PETITIONER

**Exhibit 14 to the TTAB Discovery Deposition Transcript of  
Augustin Martinez, III, dated September 28, 2017**





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TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309  
For the mark COHIBA  
Date registered: February 17, 1981

AND

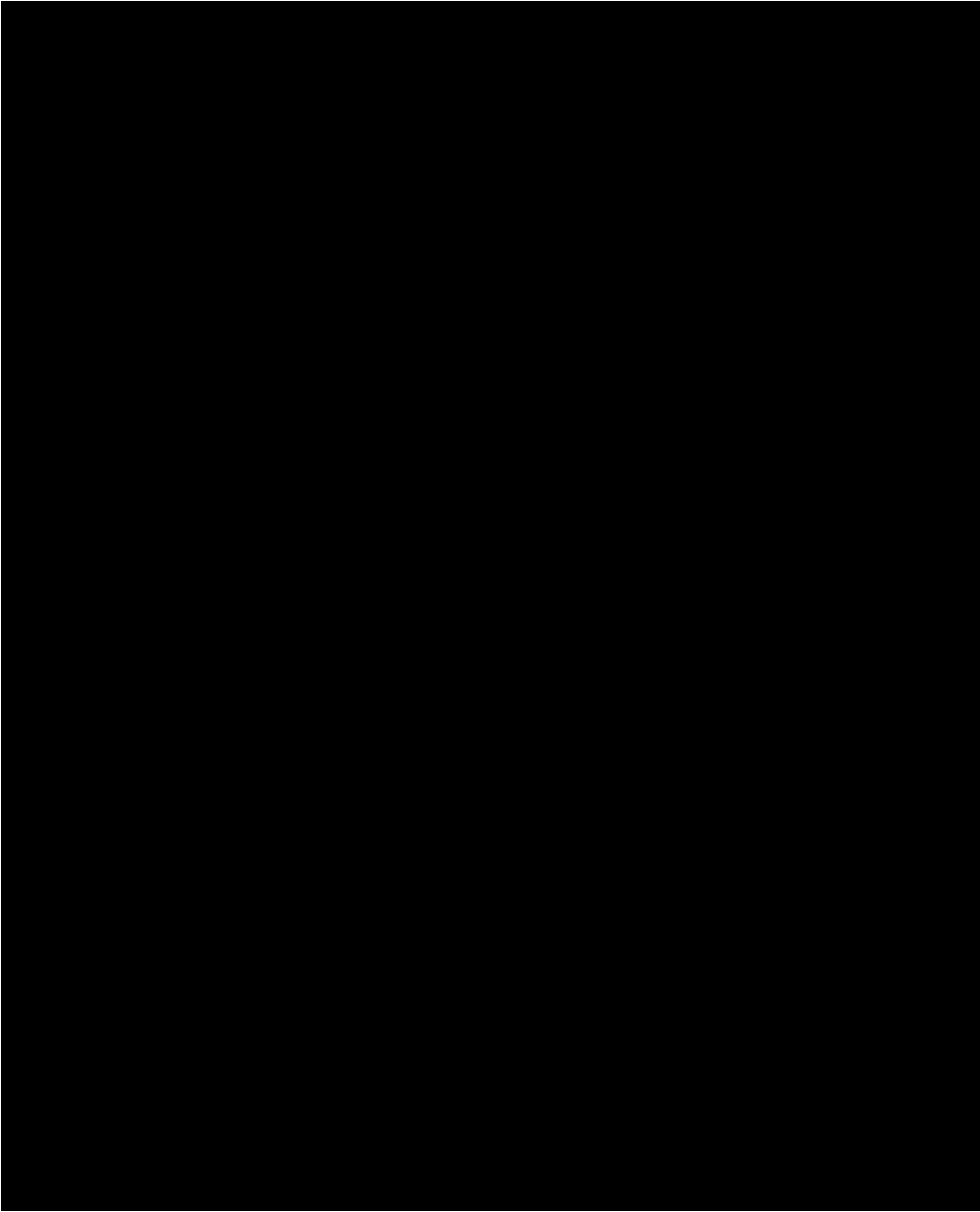
In the matter of the Trademark Registration No. 1898273  
For the mark COHIBA  
Date registered: June 6, 1995

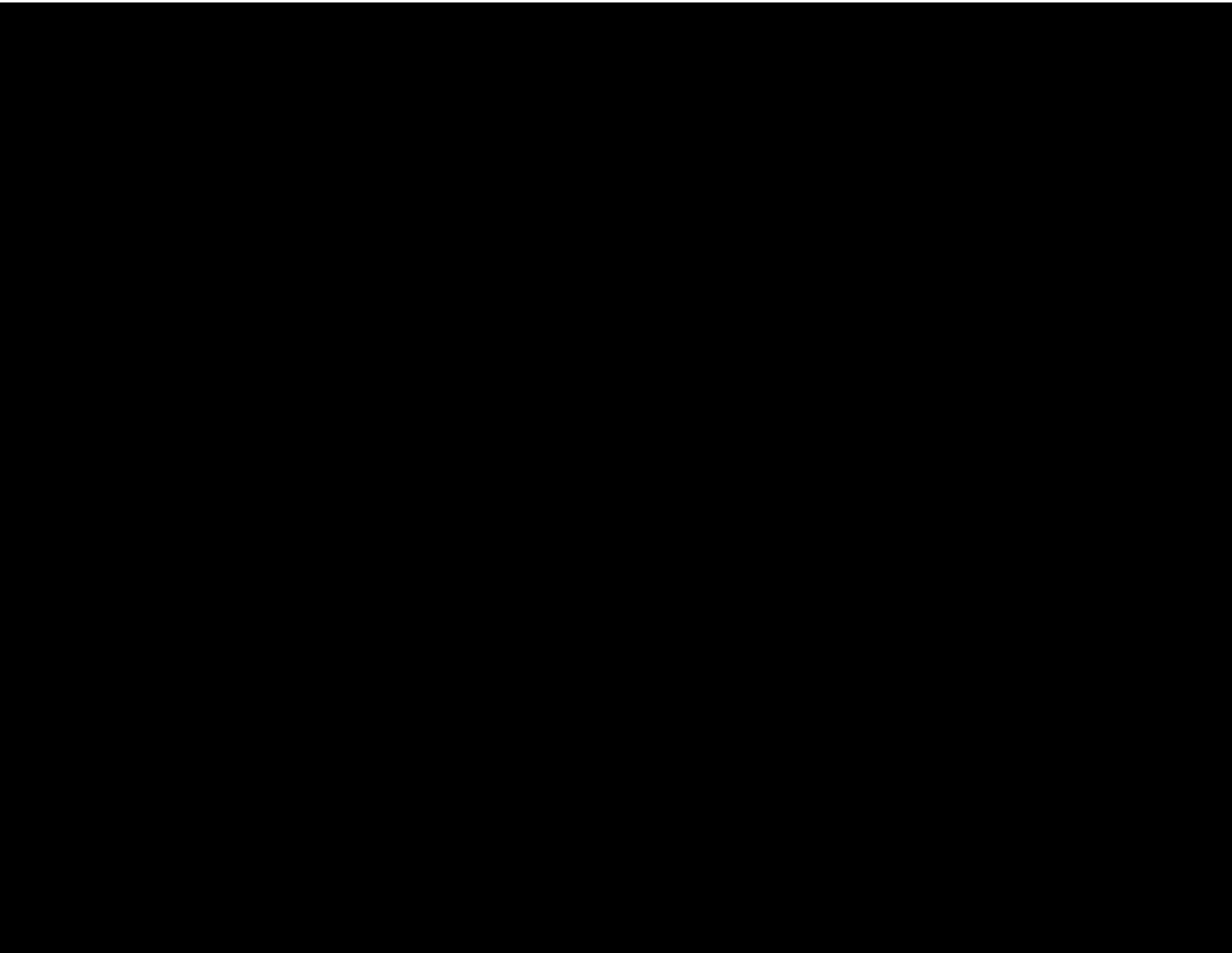
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EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----	X	

PARTY OFFERING: PETITIONER

**Exhibit 15 to the TTAB Discovery Deposition Transcript of  
Augustin Martinez, III, dated September 28, 2017**







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TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

Date registered: June 6, 1995

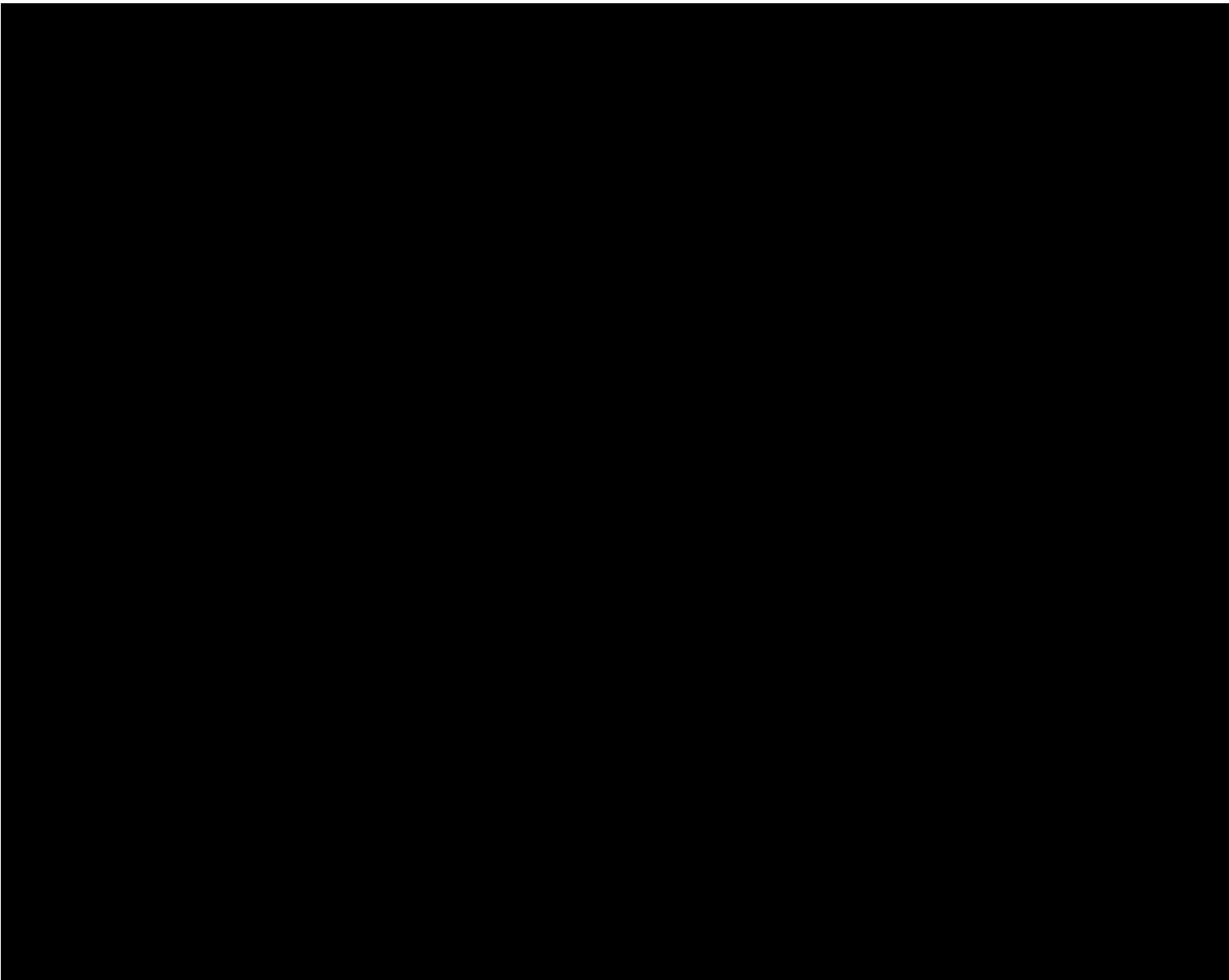
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CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
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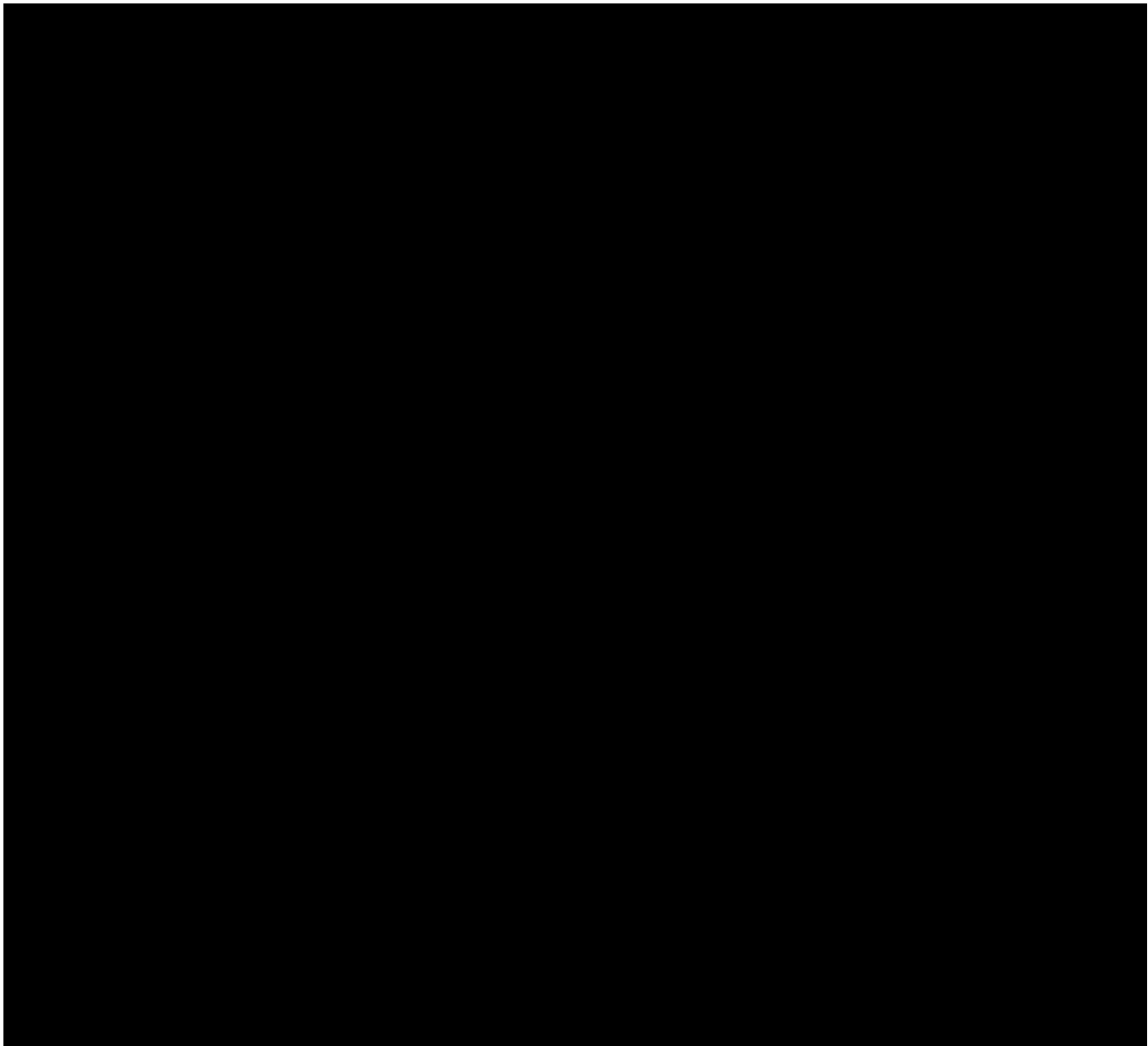
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**Exhibit 17 to the TTAB Discovery Deposition Transcript of  
Augustin Martinez, III, dated September 28, 2017**

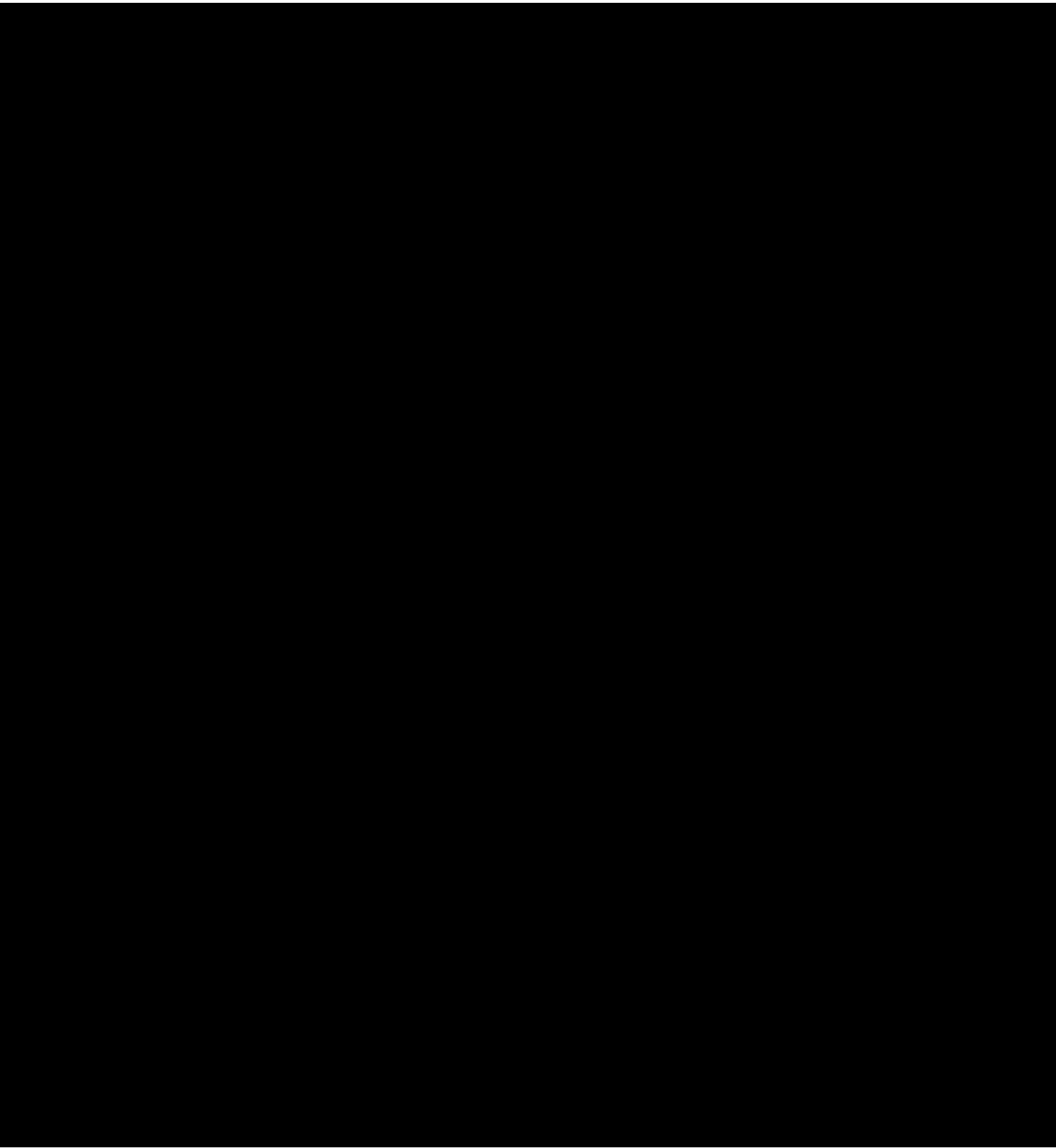


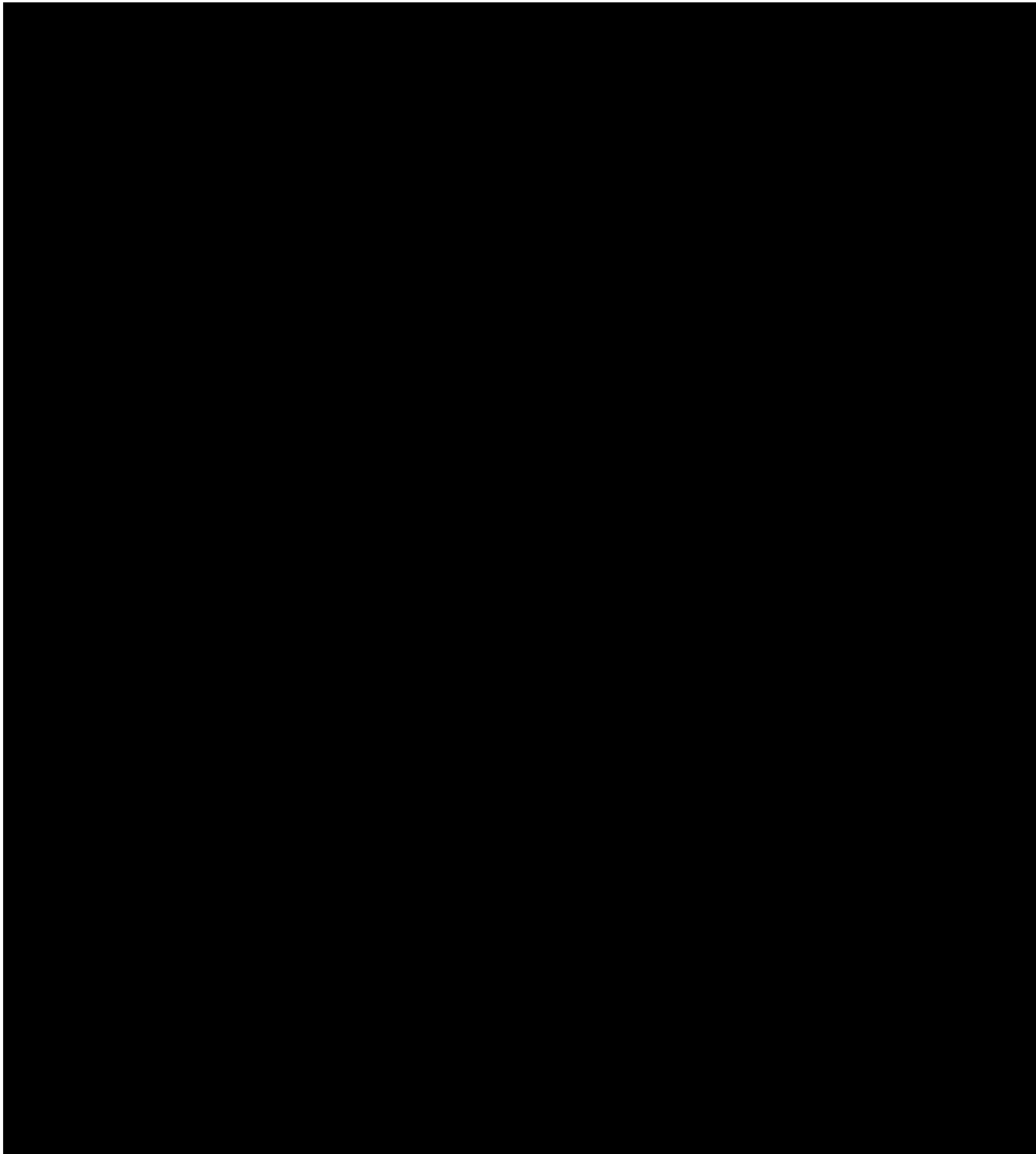


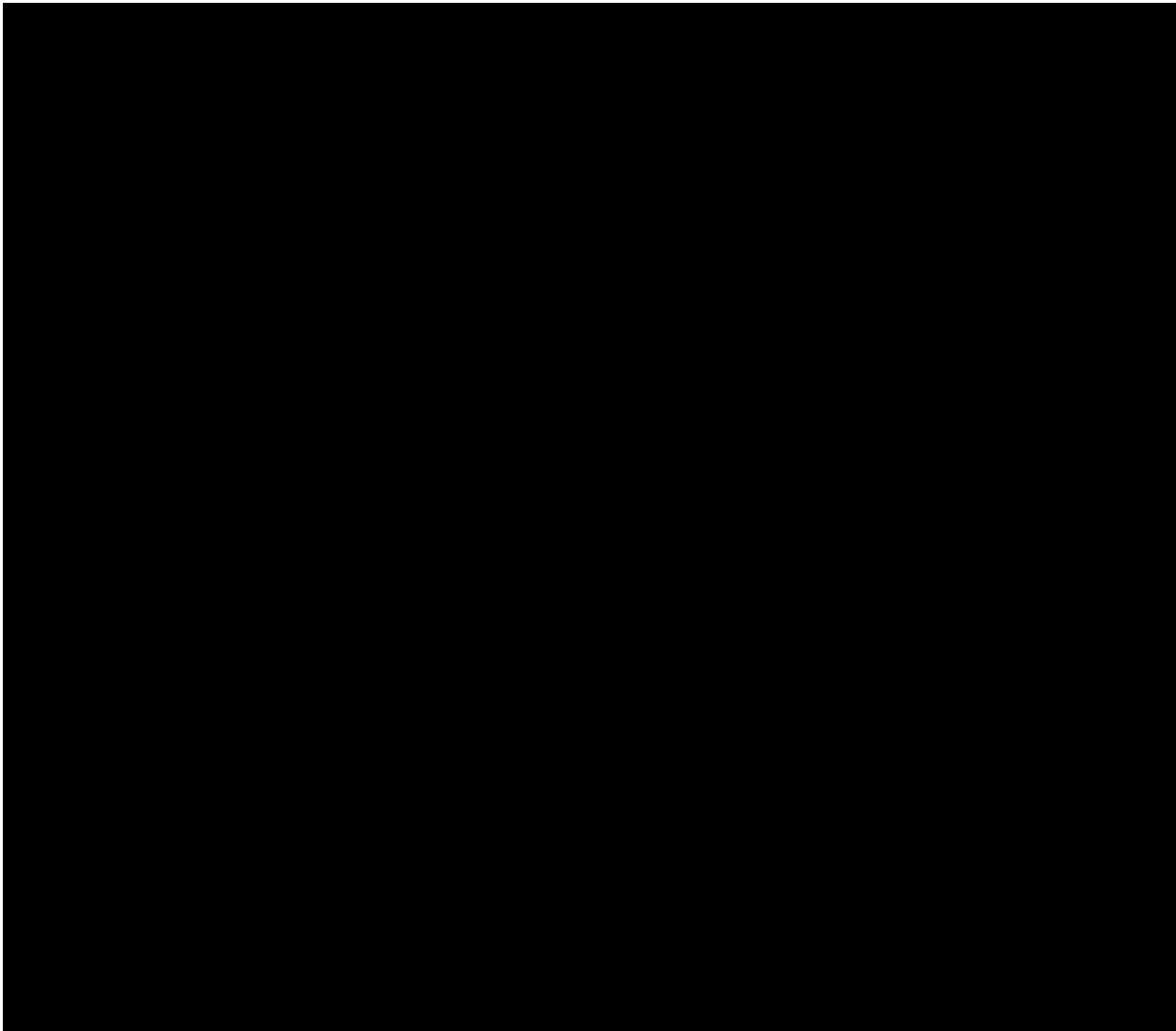
















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For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

Date registered: June 6, 1995

-----	X	
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	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
	:	
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	:	
Respondent.	:	
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In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

Date registered: June 6, 1995

-----	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----	X	

PARTY DESIGNATIONS\*: Petitioner's Designations During Its Trial Period—Yellow or Pink  
Respondent's Designations During Its Trial Period—Green  
Petitioner's Designations During Its Rebuttal Period—Blue

**Designated TTAB Discovery Deposition Transcript of  
Eugene Paul Richter, III, dated November 2, 2017**

\* Designations made pursuant to the marking and filing procedure the Board has previously approved, TTABVUE Nos. 165, 157, 138, 137, 135 and 132.



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# **Transcript of Eugene Paul Richter, III**

**Date:** November 2, 2017

**Case:** Empresa Cubana Del Tabaco -v- General Cigar Co., Inc. (TTAB)

**Planet Depos**

**Phone:** 888.433.3767

**Email:** transcripts@planetdepos.com

**www.planetdepos.com**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date Registered: February 17, 1081

AND

In the matter of Trademark Registration No: 1898273

For the mark COHIBA

Date Registered: June 6, 1995

— — — — — X

EMPRESA CUBANA DEL TABACO, :

d.b.a. CUBATABACO, :

Petitioner, :

V.

GENERAL CIGAR CO., INC. and :

CULBRO CORP., :

Respondents. :

— — — — — X

HIGHLY CONFIDENTIAL

Deposition of EUGENE PAUL RICHTER, III

Richmond, Virginia

Thursday, November 2, 2017, 9:00 a.m.



1 Job No.: 164366

2 Pages: 1 - 153

3 Reported By: Leslie D. Etheredge, RMR, CCR

4

5

6 Deposition of EUGENE PAUL RICHTER, III, held  
7 at the offices of:

8

9 ECKERT SEAMANS CHERIN & MELLOTT

10 919 East Main Street, Suite 1300

11 Richmond, Virginia 23219

12 804.788.7740

13

14

15

16

17 Pursuant to Notice, before Leslie D.

18 Etheredge, Registered Merit Reporter, Certified

19 Court Reporter and Notary Public in and for the

20 Commonwealth of Virginia.

21

22

1

A P P E A R A N C E S

2

3

ON BEHALF OF THE PETITIONER:

4

LINDSEY FRANK, ESQUIRE

5

RABINOWITZ, BOUDIN, STANDARD, KRINSKY

6

& LIEBERMAN

7

45 Broadway, Suite 1700

8

New York, New York 10006

9

212.254.1111

10

11

ON BEHALF OF THE RESPONDENTS:

12

AIRINA LYNN RODRIGUES, ESQUIRE

13

DLA PIPER LLP (US)

14

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15

New York, New York 10020

16

212.335.4673

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22

1	C O N T E N T S		
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7			
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21	Exhibit 8	Bates GENC 0044731	107
22		through 44761	



HIGHLY CONFIDENTIAL  
Transcript of Eugene Paul Richter, III  
Conducted on November 2, 2017

5

1	Exhibit 9	Bates GENC 0009737 to	115
2		9739	
3	Exhibit 10	Bates number CT0033025	118
4		to 33041	
5	Exhibit 11	Bates GENC 0003910 to	135
6		3932	
7	Exhibit 12	Bates GENC 0004107, 4132	140
8		to 4149	
9	Exhibit 13	Bates GENC 00031624 to	144
10		31643	
11	Exhibit 14	Bates GENC 0015200 to	146
12		10205	

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P R O C E E D I N G S

2

Whereupon,

3

EUGENE PAUL RICHTER, III,

4

being first duly sworn to testify to the truth, the

5

whole truth, and nothing but the truth, was

6

examined and testified as follows:

7

DIRECT EXAMINATION BY COUNSEL FOR THE PETITIONER

8

BY MR. FRANK:

9

Q Good morning. My name is Lindsey Frank,

10

and I am from the law firm of Rabinowitz, Boudin,

11

Standard, Krinsky & Liberman PC. We are counsel

12

for petitioner in this action.

13

Are you being represented today by

14

counsel?

15

A Yes.

16

MR. FRANK: Counsel, can you identify

17

yourself for the record, please.

18

MS. RODRIGUES: My name is Airina

19

Rodrigues of the law firm of DLA Piper, LLP, US.

20

We are counsel to the Respondent in this action

21

today.

22

Q I will be asking you a series of

1 questions. The reporter will record my questions  
2 and your responses. If any of my questions aren't  
3 clear, please let me know, and I will try to  
4 clarify them.

5 Please note that the court reporter has to  
6 transcribe your responses so try not to nod or  
7 point to documents. Use your words.

8 A Okay.

9 Q Is there any reason you can't testify  
10 truthfully today?

11 A No.

12 Q Are you currently taking any medication  
13 that would affect your ability to testify fully  
14 and truthfully today?

15 A No.

16 Q Are you currently subject to any medical  
17 condition that would affect your ability to  
18 testify truthfully and fully today?

19 A No.

20 Q Please describe the schools you attended  
21 starting with -- starting after secondary  
22 education.

1           A   So the University of Wyoming would be the  
2 first one.

3           Q   Did you graduate from the University of  
4 Wyoming?

5           A   Yes.

6           Q   What year?

7           A   1987.

8           Q   Did you graduate with a degree?

9           A   Yes.

10          Q   What degree was that?

11          A   BS.

12          Q   Is that a bachelor of science?

13          A   Yes.

14          Q   Was there a focus of your bachelor of  
15 science?

16          A   Business administration.

17          Q   Did you graduate with honors?

18          A   No.

19          Q   Did you attend any schools after  
20 graduating from the University of Wyoming?

21          A   I was commissioned as Second Lieutenant of  
22 the United States Air Force, attended

1 undergraduate navigator's training.

2 Q What years were you in the Air Force?

3 A 1987 to 1988.

4 Q Did you attend any other schools?

5 A No.

6 Q Have you ever held any teaching positions?

7 A No.

8 Q Have you ever published any articles on  
9 business administration, marketing or sales?

10 A No.

11 Q Have you ever given any lectures on  
12 business, sales, marketing?

13 A No.

14 Q Have you had any training in business  
15 administration or sales since graduating from the  
16 University?

17 A No.

18 Q Are you a member of any professional  
19 organizations?

20 A No.

21 Q What was your first employment after  
22 graduating from the University of Wyoming?

1 A United States Air Force.

2 Q After -- That was from 1987 to 1988?

3 A Yes.

4 Q After the Air Force, what was your next  
5 position?

6 A Gallo Sales Company.

7 Q Could you spell that, please.

8 A Gallo Sales Company, G-A-L-L-O. Gallo  
9 Winery. How's that?

10 Q Did you have a formal title at Gallo?

11 A Sales rep.

12 Q What year did you begin?

13 A 1988.

14 Q What were your responsibilities as sales  
15 rep for Gallo?

16 A Selling Gallo products into retail stores.

17 Q For how long were you employed at Gallo as  
18 a sales representative?

19 A Gallo - San Francisco, for one year;  
20 Premier Beverage in Miami, Florida, for one year.  
21 1990.

22 Q Is Premier Beverage related to Gallo?

1           A   It was a Gallo selling house, yes.  An  
2           independent distributor with relationships with  
3           the Gallo organization.

4           Q   What was your position at Premier  
5           Beverage?

6           A   Sales rep.

7           Q   What were your responsibilities?

8           A   Selling Gallo products into retail stores.

9           Q   Did you say that began in 1990?

10          A   I went from 1988 to 1990, both in San  
11          Francisco Bay area, and in Miami, Florida, two  
12          different operations.

13          Q   After -- Was there a point when you ended  
14          your employment at Premier Beverage?

15          A   1990.

16          Q   What was the reason for ending your  
17          employment at --

18          A   Moved on to --

19          Q   -- Premier Beverage?

20          MS. RODRIGUES:  Let him finish his  
21          question.

22          Q   You can answer now.

1 A Change jobs.

2 Q What was the next position you had after  
3 sales rep at Premier Beverage?

4 A I went to work for Groupe Danone, North  
5 America.

6 Q Can you spell that for the court reporter,  
7 please.

8 A G-R-O-U-P-E, Danone, D-A-N-O-N (sic), of  
9 North America.

10 Q What year did you begin at --

11 A 1990.

12 Q -- Groupe Danone?

13 What was your first position at Groupe  
14 Danone?

15 A District Sales Manager.

16 Q What were your responsibilities as  
17 District Sales Manager?

18 A Managing distributor networks to put  
19 product into retail stores.

20 Q For how long were you District Sales  
21 Manager at Danone?

22 A Roughly 2 years.



1 Q Did you change positions at Groupe Danone?

2 A Yes.

3 Q What was the next position at Groupe  
4 Danone?

5 A Regional Manager.

6 Q When did you begin as Regional Manager?

7 A Roughly 1992.

8 Q What were your responsibilities as  
9 Regional Manager?

10 A Managing distributor networks to put  
11 product into retail stores.

12 Q For how long were you Regional Manager?

13 A I was in the Regional Manager position  
14 roughly 4 years.

15 Q That would be about until 1996?

16 A Somewhere in there, yes.

17 Q What was the next position after Regional  
18 Manager?

19 A Sales Planning Manager.

20 Q Was that at Danone?

21 A Yes.

22 Q What were your responsibilities as Sales

1 Planning Manager?

2 A Coordinating sales and marketing  
3 activities with our field sales organization.

4 Q For how long were your Sales Planning  
5 Manager?

6 A Roughly 2 years.

7 Q That would be until approximately 1998?

8 A Yes, somewhere in there.

9 Q What was your next position after Sales  
10 Planning Manager?

11 A Western Division Manager.

12 Q Was that at Danone?

13 A Yes.

14 Q What were your responsibilities?

15 A Managing the sales organization of roughly  
16 12 people plus managing distributor networks to  
17 put product into retail stores.

18 Q For how long did you hold that position?

19 A Roughly a year.

20 Q That would be until approximately 1999?

21 A Yes.

22 Q What was the next position after Western

1 Division Manager?

2 A Vice President of National Accounts.

3 Q Was that also at Danone?

4 A Yes.

5 Q What were your responsibilities as Vice  
6 President of National Accounts?

7 A Managing the distribution of product into  
8 the large national accounts across the US.

9 Q Do you hold another position after Vice  
10 President of National Accounts?

11 A Not at Groupe Danone.

12 Q When did you leave Groupe Danone?

13 A Roughly 2000.

14 Q What was the next position after Vice  
15 President of National Accounts at Danone?

16 A Vice President of Off Premise National  
17 Accounts at Allied Domecq Wine & Spirits.

18 Q Can you spell that for the court reporter,  
19 please.

20 A A-L-L-I-E-D, Allied, Domecq, D-O-M-E-C-Q,  
21 Wine & Spirits.

22 Q What were your responsibilities as Vice

1 President of Off Premise?

2 A Selling in of company products to the  
3 large national account organizations across the  
4 US.

5 Q When did you begin in that position?

6 A Roughly 2000.

7 Q What was the reason for your departure  
8 from Danone?

9 A Change in management.

10 Q Did you leave voluntarily?

11 A Yes.

12 Q For how long did you hold the position of  
13 Vice President of Off Premise National Accounts?

14 A Roughly 6 months. 6 to 8 months.

15 Q What was the next position after that?

16 A Vice President of Southeast Region.

17 Q Was that at Domecq?

18 A Yes.

19 Q For how long did you hold that position?

20 A It was a little over 2 years.

21 Q Would that be to 2002, 2003?

22 A Roughly into that, yes.

1 Q What were your responsibilities as Vice  
2 President of the Southeast Region?

3 A Managing and overseeing the activities in  
4 14 states, sales and marketing activities,  
5 managing a team of 24 --

6 THE COURT REPORTER: I need you to slow  
7 down a little. Managing and overseeing the  
8 activities of --

9 A -- in 14 states, sales and marketing  
10 activities and managing a team of 24, ensuring  
11 distribution and sales of company products.

12 Q Did you hold a position at Domecq after  
13 Vice President of the Southeast Region?

14 A I was moved over to the Vice President of  
15 the Texas Division.

16 Q When did that begin?

17 A Let's see. I held two and a half -- so  
18 what year are we at? That would have been 2003, I  
19 held that until 2005.

20 Q What were your responsibilities as Vice  
21 President of the Texas Division?

22 A Same as the Southeast Region, it was just

1 condensed down to one super state.

2 Q What was the next position you held after  
3 that?

4 A Vice President of Off Premise, or excuse  
5 me, yes, Vice President of Off Premise, Coors  
6 Brewery.

7 Q Just to be clear, Vice President of the  
8 Texas Division, that was at Domecq?

9 A Yes.

10 Q What was the reason for your departure  
11 from Domecq?

12 A Acquisition. Company was sold.

13 Q When did you begin as Vice President of  
14 Off Premises at Coors?

15 A It was roughly early 2006.

16 Q What were your responsibilities as Vice  
17 President of Off Premises at Coors?

18 A Developing and leading off premise  
19 activities for the Coors Brewery. Bars,  
20 restaurants, hotels, et cetera.

21 Q For how long did you hold that position?

22 A From 2006 to 2008.

1 Q What was the next position after that?

2 A Vice President of Sales, General Cigar.

3 Q When did you begin as Vice President of  
4 Sales of General Cigar?

5 A 2008.

6 Q Do you remember what month?

7 A April.

8 Q What was the reason for your departure  
9 from Coors Brewing Company?

10 A Coors merged with the Miller Brewing  
11 Company. It required relocation to Chicago, we  
12 weren't interested.

13 Q What were your responsibilities as Vice  
14 President of Sales at General Cigar when you  
15 began?

16 A Overseeing the sales and distribution and  
17 marketing and execution responsibilities to the  
18 sales organization.

19 Q Was there a -- When you began at General  
20 Cigar, was there a separate department for  
21 marketing?

22 A Yes.

1 Q Who was the Vice President of Marketing at  
2 the time?

3 A Well, when I came on -- I can't remember  
4 his name. I don't remember. I will have to come  
5 back.

6 Q When you began as Vice President of --  
7 Strike that.

8 What is your current position at General  
9 Cigar?

10 A Vice President of Sales.

11 Q Have your responsibilities changed since  
12 you began?

13 A The only change is in 2010, I took on  
14 responsibility for the national account business.

15 Q Who had that responsibility prior to 2010?

16 A Keith Sparacio was responsible for the  
17 national accounts, reported directly into Dan  
18 Carr, president.

19 Q What department did Mr. Sparacio -- What  
20 department was he part of?

21 A Sales.

22 Q How do you spell his last name?



1           A   S-P-A-R-I-C-A-O, something like that.

2   Sparacio.

3           Q   You say part of your responsibilities  
4   include overseeing sales and distribution. What  
5   does that mean?

6           A   It means taking our product to the  
7   streets, to the retail organization, all retail  
8   outlets that we sell directly.

9           Q   You said part of your responsibilities  
10   include overseeing marketing and execution  
11   responsibilities of sales. What does that mean?

12          A   It means marketing teams put together  
13   programs, my sales organization takes those out  
14   and executes what the marketing organization puts  
15   together.

16          Q   How do they execute those programs?

17          A   Present them to accounts.

18          Q   When you say present them to accounts,  
19   what do you mean present them. What is the them?

20          A   The promotions that the marketing  
21   organization puts together, to support our brands.

22          Q   Other than promotions, do your sales reps

1 present any other information to the accounts?

2 A Like what?

3 Q I don't know. You tell me. Other than  
4 promotions.

5 A We present promotion and reasons why they  
6 should carry our brands.

7 Q You said in 2010, you took over  
8 responsibilities for the national account  
9 business. What are those responsibilities?

10 A Basically, it was consolidation of all the  
11 selling requirements, the selling sales  
12 organization function under one person.

13 Q So what is the difference between the  
14 national accounts and the other accounts that you  
15 were working with prior to 2010?

16 A Size of volume.

17 Q How many national accounts did General  
18 Cigar have when you took over approximately?

19 A Roughly 10.

20 Q How many national accounts does General  
21 Cigar have now?

22 A Roughly 10.

1 Q Which are the national accounts currently?

2 A Those would be the large internet  
3 companies.

4 Q What companies are those?

5 A For example, Cigars International, Mike's  
6 Cigars, Thompson's, Famous, JR Cigars, Best Cigar  
7 Prices, it could include Total Wine.

8 Q Anything else?

9 A AAFES.

10 Q How do you spell that?

11 A A-F-F-E-A-S.

12 Q I am sorry. AFEE --

13 A AF -- Air Force Army Exchange System.

14 Q AAFES. Is that what AAFES stands for?

15 A AAFES, yes.

16 Q Any other national accounts that you can  
17 recall?

18 A No.

19 Q And these were the same national accounts  
20 that General Cigar has had since you took them  
21 over in 2010?

22 A Yes.

1 Q Does anyone report -- Strike that.

2 When you first began as Vice President of  
3 Sales, did anyone report to you?

4 A Yes.

5 Q Approximately how many people reported to  
6 you directly?

7 A Direct reports was three.

8 Q What were the titles of those people?

9 A Region Sales Manager.

10 Q What -- Were they three different regions?

11 A Yes.

12 Q What were the three different regions?

13 A East, Central, West.

14 Q Do these same three Region Sales Managers  
15 report to you currently?

16 A Two of the three.

17 Q Which two?

18 A West, Central.

19 Q Does East report -- Is there currently an  
20 East Region Sales Manager?

21 A Yes.

22 Q To whom does --

1 A Me.

2 Q -- that person report?

3 A Me.

4 Q So how many people report to you  
5 currently?

6 A Currently reporting directly into me?

7 Q Yes.

8 A Five.

9 Q Who are the five people that currently  
10 report to you?

11 A Three Region Managers, Director of  
12 Strategic Accounts, Director of Sales operations.

13 Q What are the responsibilities of the  
14 Region Sales Managers?

15 A Responsible for managing their sales  
16 organization, Premium Sales Managers, ensuring  
17 proper sales and distribution of our products at  
18 the retail store level.

19 Q Have these responsibilities changed since  
20 you started as Vice President of Sales?

21 A No.

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15 Q What are the responsibilities of the  
16 Premium Sales Managers?

17 A Sales and marketing, distribution of our  
18 products at the retail store level. When I say  
19 marketing, I define that as presenting the  
20 programs developed by our marketing organization.

21 Q Have these responsibilities changed since  
22 you started as Vice President at General Cigar?

1 A No.

2 Q What are the responsibilities of the  
3 Director of Strategic Accounts?

4 A Overseeing sales, execution, volume,  
5 results, targeting, training and education,  
6 dissemination of marketing programs to the selling  
7 organization.

8 Q You say training and education. Training  
9 and education of whom?

10 A Sales organization.

11 Q Of General Cigar's sales organization?

12 A Yes.

13 Q What are the strategic accounts?

14 A Strategic accounts are the national  
15 accounts.

16 Q Those are -- The national accounts are the  
17 ones you previously identified?

18 A Correct.

19 Q The responsibilities of the Director of  
20 Strategic Accounts you just identified, are those  
21 only with respect to the national -- to the  
22 strategic accounts or national accounts or --

1 A Selling organization.

2 Q -- does that concern the selling  
3 organization?

4 A Selling organization, yes.

5 Q When you say selling organization, you  
6 mean the sales department at General Cigar?

7 A Correct.

8 Q What are the responsibilities of the  
9 Director of Sales Operation?

10 A That's what we just reviewed.

11 Q You had indicated there was the Director  
12 of Strategic Accounts.

13 A Oh, I am sorry. I reversed the two. What  
14 I gave you is Director of Sales Operation, what he  
15 was responsible for.

16 Director of Strategic Account oversees the  
17 strategic or national accounts within General  
18 Cigar.

19 Q When you say oversees those accounts, what  
20 does that mean?

21 A He is responsible for them.

22 Q What do those responsibilities include?



1 A Volume, distribution.

2 Q Do they include the marketing of the  
3 product as well?

4 A They would include presenting programs  
5 developed by the marketing organization to support  
6 the brands.

7 Q So the responsibilities of the director of  
8 sales operation would be overseeing sales,  
9 execution, volume, results, targeting, training  
10 and education, disseminating of marketing programs  
11 to the selling organization?

12 A Yes.

13 Q I just wanted to clarify that.

14 A Yes.

15 Q Who currently is the Director of Strategic  
16 Accounts?

17 A David Pace.

18 Q Do you know who was the Director of  
19 Strategic Accounts -- Strike that.

20 Was there anyone who was Director of  
21 Strategic Accounts prior to Mr. Pace?

22 A Keith Sparacio.

1 Q When did Mr. Pace take over from  
2 Mr. Sparacio?

3 A Roughly 2 years ago.

4 Q 2015 about?

5 A Roughly.

6 Q Was there someone who was Director of  
7 Strategic Accounts prior to Mr. Sparacio?

8 A Not to my knowledge.

9 Q Who currently is the Director of Sales  
10 Operations?

11 A Bud Henderson.

12 Q Was there someone who was Director of  
13 Sales Operations prior to Mr. Henderson?

14 A No.

15 Q Who is the Regional Sales Manager for the  
16 East?

17 A Cameron Shaw.

18 Q Was there anyone who was Region Sales  
19 Manager prior to Mr. Shaw?

20 A Yes.

21 Q Who was that?

22 A Frank Kapp.

1 Q Can you spell that for the court reporter,  
2 please?

3 A Frank Kapp, K-A-P-P.

4 Q When did Mr. Shaw take over from Mr. Kapp?

5 A It was roughly 3 years ago.

6 Q Was there anyone who was Region Sales  
7 Manager for the East prior to Mr. Kapp?

8 A Yes.

9 Q Who was that?

10 A Leslie Bratek.

11 Q Can you spell that for the court reporter.

12 A B-R-E-A-K-T, I think it was.

13 Q When did Mr. Kapp take over for Leslie  
14 Bratek?

15 A I don't totally recall.

16 Q Was there someone who was Region Sales  
17 Manager prior to Bratek?

18 A Prior to my time at General Cigar.

19 Q Do you know who that was?

20 A No.

21 Q Who currently is Region Sales Manager for  
22 Central?

1 A Mike Radecki.

2 Q How do you spell Radecki?

3 A R-A-D-E-C-K-I.

4 Q Was there someone who was Region Sales  
5 Manager for Central prior to Mr. Radecki?

6 A Prior to my time.

7 Q Who is the Region Sales Manager for the  
8 West?

9 A Chris Tarr, T-A-R-R.

10 Q Was there someone who was Region Sales  
11 Manager for the West prior to Mr. Tarr?

12 A Bob Sparacino. I don't know how to spell  
13 it.

14 Q Was there someone who was Region Sales  
15 Manager for the West prior to Mr. Sparacino?

16 A Before my time.

17 Q When did the Director of Strategic  
18 Accounts and the Director of Sales Operations  
19 first start reporting to you directly?

20 A 2010 for both.

21 Q Prior to that, to whom did they report?

22 A To the President.

1 Q To whom do you report currently?

2 A The President.

3 Q Anyone else?

4 A No.

5 Q To whom did you report when you first  
6 started at General Cigar?

7 A The President.

8 Q Anyone else?

9 A No.

10 Q Have you always reported just to the  
11 President?

12 A Yes.

13 Q Do you currently have any responsibilities  
14 that concern General Cigar's Cohiba cigar?

15 A Selling -- Other than selling, no.

16 Q But all the responsibilities that you  
17 described previously, do these also relate to  
18 General Cigar's Cohiba cigars?

19 A Yes.

20 Q Has that been the case since you started  
21 at General Cigar?

22 A Yes.

1 Q To whom do you report concerning your work  
2 related to General Cigar's Cohiba cigar?

3 MS. RODRIGUES: Objection. You can  
4 answer.

5 A Can you restate the question?

6 Q To whom do you report concerning your work  
7 concerning General Cigar's Cohiba cigar?

8 A Ultimately, I report to the President.

9 Q You say ultimately. Is there anyone else  
10 you report to?

11 A No.

12 Q Does anyone report to you concerning --  
13 Strike that.

14 Other than the individuals that you  
15 previously reported, does anyone -- Strike that.

16 Does anyone report to you concerning  
17 General Cigar's Cohiba cigars?

18 MS. RODRIGUES: Objection.

19 A Can you restate your question? I don't  
20 understand.

21 Q Does anyone -- You had indicated that  
22 certain individuals report to you directly

1 concerning their work.

2 A Uh-huh.

3 Q Does all that work -- Do all of those  
4 individuals report to you concerning General  
5 Cigar's Cohiba cigars?

6 MS. RODRIGUES: Objection. You can  
7 answer. You can answer.

8 A All individuals report to me sell all  
9 brands that General Cigar represents.

10 Q In order to be ready to testify today, did  
11 you do anything in particular to learn about or  
12 refresh your memory about General Cigar or Cohiba  
13 in the period since you started at General Cigar?

14 A I met with counsel.

15 Q When did you meet with counsel?

16 A Yesterday.

17 Q Any other time?

18 A Previously, a couple of times on the  
19 phone.

20 Q Is that two times on the phone or more?

21 A Maybe two. I don't totally recall.

22 Q Do you recall when those conversations

1       were?

2           A   No.

3           Q   Did you review any documents during your  
4       meeting or telephone calls with counsel?

5           A   Some documents yesterday.

6           Q   Which documents did you review?

7           A   I don't recall.   Several.

8           Q   Approximately how many documents?

9           A   Don't really recall.   There was a bunch.

10          [REDACTED]

11          [REDACTED]

12          [REDACTED]

13          [REDACTED]

14          [REDACTED]

15          [REDACTED]

16          [REDACTED]

17          [REDACTED]

18          [REDACTED]

19          [REDACTED]

20          [REDACTED]

21          [REDACTED]

22          [REDACTED]



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5

MS. RODRIGUES: Objection.

6

Q Did you speak with in-house counsel --

7

Strike that.

8

Are you aware of any documents relevant to

9

this proceeding that have been deleted or

10

destroyed?

11

A No.

12

Q Did you use email when you first started

13

working at General Cigar?

14

A Yes.

15

Q Do you delete your emails?

16

A Not as regularly as I should.

17

Q But you do delete emails?

18

A I send it to the trash can.

19

Q What is your practice of deleting emails?

20

A Not really sure.

21

Q Can you estimate how many emails you have

22

deleted over the past -- since you started at

1 General Cigar?

2 A No.

3 MS. RODRIGUES: Objection.

4 Q Hundreds?

5 MS. RODRIGUES: Objection.

6 A I have no way of telling.

7 Q More than a hundred?

8 A I have no really way of telling.

9 Q How do you organize, maintain and store  
10 your files?

11 A Not very well.

12 Q Other than not very well, can you provide  
13 further information. Are there hard copies of  
14 your file?

15 A Oh, no.

16 Q Nothing is printed?

17 A No.

18 Q Are you given any printed documents?

19 A No.

20 Q Do you maintain electronic files?

21 A Some.

22 Q Where are those electronic files

1 maintained?

2 A On my laptop.

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 Q -- for files?

21 Do you maintain any work or professional  
22 records on any personal device such as a mobile

1 phone or iPad or --

2 A No.

3 Q Did you receive a litigation hold or  
4 instruction not to delete documents in connection  
5 with this litigation?

6 A I believe so.

7 Q Do you know when that was?

8 A I don't remember the date.

9 Q Was it when you first started?

10 A No.

11 MS. RODRIGUES: Objection.

12 Q How many people are there currently in the  
13 sales department at General Cigar?

14 A Roughly 30.

15 Q Would those be the roughly 25 Premium  
16 Sales Managers plus the three Region Sales  
17 Managers, the Director of Strategic Accounts and  
18 Director of Sales Operation and yourself?

19 A Just including the sales organization, so  
20 I put the Director of Strategic -- excuse me --  
21 the Director of Sales Operation aside, so if I add  
22 those, it will be over 30 people.

1 Q So other than the Premium Sales Managers,  
2 who else is in the sales department?

3 A Your Region Managers, your Director of  
4 Strategic Accounts, your Strategic Account  
5 Managers.

6 Q How many Region Managers are there?

7 A Three.

8 Q Are those the Region Sales Managers that  
9 we previously discussed?

10 A Yes.

11 Q We previously discussed the Director of  
12 Strategic Accounts; correct?

13 A Yes.

14 Q The Strategic Account Managers, how many  
15 are there of those?

16 A Three.

17 Q Is there one for the East, one for the  
18 West and one for the Central?

19 A They're not divided up geographically.

20 Q How are they divided?

21 A By account.

22 Q What do you mean by account, what does

1 that mean?

2 A We assign them accounts.

3 Q How many accounts does each Strategic  
4 Account Manager have?

5 A It depends on the account size. There is  
6 no -- no divvying it up on an equal basis.

7 Q Can you go through each Strategic Account  
8 Manager and identify how many accounts each one  
9 has?

10 A Use a rough number, between three and  
11 four.

12 Q Who are the three Strategic Account  
13 Managers?

14 A Chris Rohr.

15 Q Can you spell the last name for us?

16 A R-O-H-R. Marcus Strom.

17 Q Can you spell the last name for us?

18 A S-T-R-O-M. Lisette Pena.

19 Q How do you spell Lisette?

20 A L-I-S-E-T-T-E, Pena.

21 Q Which accounts does Mr. Rohr have?

22 A He has JR, he has Mike's Cigar, and I

1 believe he has Best Cigar and Total Wine.

2 Q Mr. Strom?

3 A Thompson's, Famous, AAFES, Corona Cigar  
4 Company.

5 Q Anything else?

6 A Huh-uh.

7 Q And Ms. Pena?

8 A She has JR retail stores, Cigars  
9 International, Cigars International retail stores,  
10 and then she supports the other accounts as well.

11 Q Previously, you said Mr. Rohr had JR but  
12 Mr. Strom -- I am sorry -- but Ms. Pena has JR  
13 retail. Does Mr. Rohr have only internet and  
14 catalog or other aspects of JR?

15 A He oversees the whole JR unit, but they  
16 have a separate operating unit, the retail stores  
17 are actually named Casa de Montecristo. Lisette  
18 oversees that retail unit arm of it.

19 Q Prior to Mr. Rohr, was there someone else  
20 who was in charge of those accounts?

21 A Mr. Sparacio.

22 Q Do you know when Mr. Rohr took over for

1 Mr. Sparacio?

2 A Roughly a couple years ago.

3 Q Prior to Mr. Strom, was there someone who  
4 was responsible for those accounts?

5 A A combination of Mr. Sparacio and  
6 Mr. Strom.

7 Q When did that happen?

8 A Roughly a couple years ago.

9 Q Prior to Miss Pena, was there someone else  
10 responsible for her accounts?

11 A Mr. Sparacio and Mr. McKaveney.

12 Q Can you spell McKaveney.

13 A M-C-K-E-V-E-N-Y, I think.

14 Q What are the responsibilities of the  
15 Strategic Account Manager?

16 A The selling in of our company products to  
17 the assigned accounts.

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]



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3 Q Approximately how many people in the sales  
4 department work on General Cigar's Cohiba brand  
5 cigars?

6 A All people in the sales department  
7 represent all General Cigar brands.

8 Q Has that been the case since you began at  
9 General Cigar?

10 A Yes.

11 Q Does the sales department work with the  
12 marketing department at General Cigar?

13 A Not directly.

14 Q Does it work with them indirectly?

15 A Yes.

16 Q How is that?

17 A We present and sell in promotions and  
18 support activities developed by the marketing  
19 organization.

20 Q Does the sales -- Does anyone in the sales  
21 department work with anyone in the marketing  
22 department to develop the marketing materials or

1 strategies?

2 MS. RODRIGUES: Objection. You can  
3 answer.

4 Q To your knowledge.

5 A During certain parts of the year, Region  
6 Managers and myself will provide insights and  
7 input into proposed programming.

8 Q How many times a year does that occur?

9 A Roughly twice.

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 Q You mentioned ten national accounts.

21 A Roughly.

22 Q They currently are called strategic

1 accounts, I believe; is that correct?

2 A Yes.

3 Q How many of those strategic accounts  
4 purchase General Cigar's Cohiba cigars?

5 MS. RODRIGUES: Objection.

6 A All of our national accounts purchase all  
7 the brands represented by General Cigar.

8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
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Q To your knowledge, does General Cigar  
identify its customers by certain channels?

A Yes.

Q What are those channels?

A Strategic accounts, brick and mortar  
accounts, liquor.

Q Does it use the category internet or  
catalog?

A At times.

Q What times are those?

A At times we break out on reports, we will  
put internet/catalog.

Q Are there any other categories that  
General Cigar uses to categorize its customer  
other than internet, catalog, liquor, brick and  
mortar and strategic account?

A Contract manufacturer.

1 Q What is contract manufacturer?

2 A Third-party production.

3 Q What does that mean?

4 A We produce product for another  
5 manufacturer that they sell and market in the  
6 cigar industry.

7 Q Any other category?

8 A No.

9 Q Are there any other categories that  
10 General Cigar has used in the past?

11 A Not that I'm aware of.

12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
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22 [REDACTED]

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16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]

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3 Q Do you know if someone from the sales  
4 department is responsible for visiting customers  
5 under its charge?

6 A Can you restate that question?

7 Q Do you know if someone from General  
8 Cigar's sales department is responsible for  
9 visiting General Cigar's customers that are under  
10 its charge?

11 A All General Cigar sales folks are  
12 responsible for visiting their assigned accounts.

13 Q Are they required to visit all of their  
14 accounts?

15 A All General Cigar sales representatives  
16 are responsible for visiting their accounts, yes.

17 Q And that would include all of their  
18 accounts is the question.

19 A Yes.

20

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22



1 Q -- that you had previously identified?

2 A Yes.

3 Q Do you know how frequently -- Strike that.

4 Do you know which positions within the  
5 sales department are the ones that actually visit  
6 the customer, General Cigar's customers?

7 A Yes.

8 Q Which positions are those?

9 A That would be a Premium Sales Manager, a  
10 Region Manager, Director of Strategic Accounts,  
11 Strategic Account Managers and myself.

12 Q Which customers do the premium sales  
13 managers -- Premium Sales Managers meet with?

14 A They will meet with a combination of brick  
15 and mortar accounts, distributors. That's it.

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

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18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]

1 Q You personally, how -- with which  
2 customers will you visit physically?

3 A Depends. Depends on the opportunity or  
4 the issues.

5 Q During this past year, how many customers  
6 did you meet with, physically?

7 A Physically? Well over 200.

8 Q Where did you meet with them?

9 A Either at trade shows or within their  
10 retail operation.

11 Q Out of the 200, how many were at trade  
12 shows and how many were at retail operations?

13 MS. RODRIGUES: Objection.

14 A I don't have a number.

15 Q Approximately?

16 A For argument sake, say 50/50.

17 Q The year prior to this past year, how many  
18 customers did you meet with?

19 A Probably roughly the same.

20 Q Would they also be at trade shows and  
21 retail operations?

22 A Yes.

1 Q Would they also be approximately 50/50?

2 A Yes.

3 Q For the Premium Sales Managers, the  
4 Regional Managers, the Director of Strategic  
5 Accounts and the Special Accounts Managers, what  
6 were each of their responsibilities during their  
7 communications or visits with the customers?

8 A As I said earlier, selling our company  
9 products, ensuring merchandising and distribution.

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Q You said, during the past year, you met with approximately 200 customers. How long would your interactions with each of those customers last?

A Depending on the situation.

Q What would be the least amount of time?

A 15 minutes.

Q What would be the most?

A Hour, hour and a half.

Q Other than at trade shows and retail operations, would you meet with customers any place else?

A No.

Q During your time at General Cigar, would



1 you meet with cigar consumers?

2 A Yes.

3 Q Where would that take place?

4 A Store level. Can you define meet?

5 Q You tell me.

6 A What do you mean by meet?

7 Q Interact with.

8 A So, yes, interact at store level.

9 Q What would meet include other than  
10 interacting with?

11 A Just talk about our cigars.

12 Q That would be interact?

13 A That would be interact.

14 Q Approximately how many consumers would you  
15 interact with during each year, since you began at  
16 General Cigar?

17 A I can't give an estimate to that.

18 Q Would you take any notes during your  
19 interactions with consumers?

20 A No.

21 Q Did you memorialize any of our  
22 interactions with consumers after the fact in any

1 written document?

2 A No.

3 Q Did you discuss your interactions with  
4 consumers with anyone at General Cigar after the  
5 fact?

6 A No.

7 Q Was part of your responsibilities as Vice  
8 President of Sales interactions with consumers?

9 A No.

10 Q These would just be random or random  
11 interactions with customers?

12 MS. RODRIGUES: Objection.

13 A Yes.

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

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17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]

1 [REDACTED].

2 Q Do you review them personally?

3 A Yes.

4 Q Which magazines do you review?

5 A Cigar Aficionado, Cigar Snob, Tobacco,  
6 Tobacco News.

7 Q Any others?

8 A No.

9 Q Since when have you reviewed Cigar  
10 Aficionado?

11 A Since 2008, when I joined.

12 Q How about Cigar Snob?

13 A That's just recently. Last year, year and  
14 a half.

15 Q Tobacco News, I think you said?

16 A When I see it on the counter.

17 Q Do you know if anyone else within the  
18 sales department reviews cigar --

19 A I don't.

20 Q -- magazines?

21 A I don't know.

22 Q As part of General Cigar's sales

1 department work, does it monitor what is written  
2 about General Cigar's Cohiba cigars in any  
3 publication?

4 A No.

5 Q Do you regularly review Cigar Aficionado?

6 A I wouldn't say regularly.

7 Q How frequently during the year would you?  
8 How many issues during the year would you review?

9 A Hard to say. It is when I see it laying  
10 around, I pick it up, I look through it quickly.

11 Q As part of your work at General Cigar, do  
12 you meet with anyone within General Cigar's  
13 marketing department?

14 A Yes.

15 Q With whom do you meet?

16 A All of them.

17 Q When do you meet with them?

18 A Infrequently.

19 Q When you say infrequently, what does that  
20 mean?

21 A We work in the same office.

22 Q But these would be work-related meetings?

1           A   No.

2           Q   I am talking about work related meetings,  
3           how often were there work-related meetings with  
4           individuals within the marketing department?

5           A   I can't put a number on it.  I mean we  
6           have conversations infrequently or frequently,  
7           depending on the different projects we are working  
8           on.

9           MR. RICHTNER:  Is this a good place for a  
10          break?

11          MR. FRANK:  Yes.  Let's go off the record.

12          (Recess from 10:15 a.m. to 10:25 a.m.)

13          MR. FRANK:  Let's mark this as Richter  
14          Exhibit 1.

15          (Richter Deposition Exhibit 1 was marked  
16          for identification and is attached to the  
17          transcript.)

18          Q   This is a Notice of Deposition.

19          A   Okay.

20          Q   Can you please review it and let me know  
21          when you are done.

22          Are you appearing here today pursuant to

1 this Notice of Deposition?

2 A I am sorry?

3 Q Are you appearing here today pursuant to  
4 this Notice of Deposition?

5 A Yes.

6 MR. FRANK: Thank you. Let's mark this as  
7 Richter 2 and 3.

8 (Richter Deposition Exhibit 2 was marked  
9 for identification and is attached to the  
10 transcript.)

11 (Richter Deposition Exhibit 3 was marked  
12 for identification and is attached to the  
13 transcript.)

14 Q Please review these documents and let me  
15 know when you are ready.

16 MS. RODRIGUES: For the record, which one  
17 is 2? Is it 5731 or 5730?

18 MR. FRANK: I am sorry. I will read them.  
19 Richter Exhibit 2 is GENC 0005731.

20 MS. RODRIGUES: Okay.

21 MR. FRANK: Richter 3 is GENC 0005730.

22 MS. RODRIGUES: Okay.

1 Q Ready?

2 A Sure.

3 Q Each of these is a printout of an Excel  
4 spreadsheet produced by General Cigar in response  
5 to Petitioner's document request. The Bates  
6 number is identified here on the bottom right-hand  
7 corner.

8 Can you identify these two documents?

9 A They look like sales reports.

10 Q Do these appear to be a sales report for  
11 General Cigar's Cohiba cigars?

12 A Yes.

13 Q Do you know if the information included on  
14 these reports is approximately accurate, even if  
15 not to the dollar?

16 MS. RODRIGUES: Objection.

17 A No.

18 Q No, you don't know?

19 A No.

20 Q No, they aren't or no, you don't know?

21 A No, I don't know.

22 Q Are final annual sales figures maintained



1 in a specific document by General Cigar?

2 A Can you repeat the question?

3 Q Are final annual sales figures for General  
4 Cigar's Cohiba cigars maintained in a specific  
5 document?

6 A Yes.

7 Q What document is that?

8 A Sales report.

9 Q Which sales report -- How can you identify  
10 which are the final correct sales figures?

11 A We have many sales reports.

12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
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MR. FRANK: Okay. You can put those away.

9

10

11

(Richter Deposition Exhibit 4 was marked  
for identification and is attached to the  
transcript.)

12

Q Are you ready?

13

A Sure.

14

15

16

17

Q Do you see this is an email in between  
Miss McKee from General Cigar, Mr. Harris,  
Mr. Myers from Moosylvania and Mr. Pace from  
General Cigar, from March 2015?

18

MS. RODRIGUES: Objection.

19

Q Is that correct?

20

A It appears to be.

21

22

Q Does General Cigar have a website  
dedicated to its Cohiba cigars, to your knowledge?

1           A   Yes.

2           Q   Do you know what website that is, what the  
3 address is?

4           A   I think it is Cohiba.com.

5           Q   Do you know if this website has a section  
6 titled Find Cohiba Find Online Retailers?

7           A   Yes.

8           Q   And with links to certain online cigar  
9 retailers?

10          A   Yes.

11           [REDACTED]  
12           [REDACTED]  
13           [REDACTED]  
14           [REDACTED]  
15           [REDACTED]  
16           [REDACTED]  
17           [REDACTED]  
18           [REDACTED]  
19           [REDACTED]  
20           [REDACTED]  
21           [REDACTED]  
22           [REDACTED]

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11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]

18 Q Have you ever reviewed how the retailers  
19 linked to the Cohiba.com website were describing  
20 General Cigar's Cohiba brand cigars on the  
21 retailer's website?

22 A No.

1           Q   Have you ever reviewed how any retailers  
2           were describing General Cigar's Cohiba cigars on  
3           their websites?

4           A   No.

5           [REDACTED]  
6           [REDACTED]  
7           [REDACTED]  
8           [REDACTED]  
9           [REDACTED]  
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20          [REDACTED]  
21          [REDACTED]  
22          [REDACTED]

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19 [REDACTED]  
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21 [REDACTED]  
22 [REDACTED]

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20 Q Are you familiar with the company Cigar

21 Monthly -- Sorry. Strike that.

22 Are you familiar with the company

1 MonthlyClubs.com?

2 A No.

3 MR. FRANK: Let's mark this as Richter 5,  
4 Bates number GENC 00015642 to 44, 15644.

5 (Discussion held off the record.)

6 (Richter Deposition Exhibit 5 was marked  
7 for identification and is attached to the  
8 transcript.)

9 Q Have you ever seen this email exchange  
10 before?

11 A I have not.

12 Q Do you recall any discussions within  
13 General Cigar concerning the possibility of  
14 featuring a Cohiba Nicaragua N5x50 En Crystale on  
15 the cigarmonthclub.com website?

16 A No.

17 Q Does General Cigar sell its Cohiba cigars  
18 outside the United States --

19 MS. RODRIGUES: Objection. Asked and  
20 answered.

21 Q -- to your knowledge?

22 A No.

1 Q Does it distribute its Cohiba cigars  
2 outside the United States?

3 A No.

4 Q Since you have been at General Cigar, has  
5 it ever sold or distributed its Cohiba cigars  
6 outside the United States?

7 A No.

8 Q Since you have been at General Cigar, has  
9 General Cigar had any contract with another  
10 company or individual to sell its or distribute  
11 its Cohiba cigars outside the United States?

12 A No.

13 Q Since you have been at General Cigar, has  
14 General Cigar marketed its Cohiba cigars outside  
15 the United States?

16 A No.

17 Q Advertised its Cohiba cigars outside the  
18 United States?

19 A No, not that I'm aware of.

20 Q While you were at General Cigar, has  
21 General Cigar hired any outside company or  
22 individual to advertise or market its Cohiba

1 cigars outside the United States?

2 MS. RODRIGUES: Objection.

3 A Not that I'm aware of.

4 Q Do you know if General Cigar has an annual  
5 brand plan for its cigar brands?

6 A We have annual brand plans for all of our  
7 cigar brands.

8 Q Has that been the case since you began at  
9 General Cigar?

10 A Yes, in one form or another.

11 Q When you say in one form or another, what  
12 does that mean?

13 A Meaning they have gotten better over the  
14 last few years.

15 Q But there has always been an annual  
16 brand --

17 A There has always been a brand plan.

18 Q And for each of General Cigar's cigar  
19 brands?

20 A Yes.

21 Q That would include General Cigar's Cohiba  
22 cigars?

1 A Yes.

2 Q Do you know what information on General  
3 Cigar's brands is included in this annual brand  
4 plan?

5 MS. RODRIGUES: Objection.

6 A What is delivered to my sales organization  
7 is execution plans and programming.

8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Q Since you have been at General Cigar,  
would there be an annual meeting to review the  
annual draft plan?

A No.

Q Would there be a meeting in which the  
annual draft plan would be reviewed and approved  
by General Cigar?

A Oh, that's my stomach. Yes.

Q For each year you were at General Cigar?

A Not each year.

1 Q In the last 5 years, was there such a  
2 meeting?

3 A Yes.

4 Q Do you remember in which years there were  
5 not annual meetings to review and approve the  
6 annual brand plan?

7 A No.

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

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18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]

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Q Do you participate in that meeting?

6

A Sometimes.

7

8

Q Last year, did you participate in that meeting?

9

A I did.

10

11

Q Did you participate in the meeting the year before that?

12

A I don't know if I did that one.

13

14

Q That would be the meeting for the 2017 brand plan?

15

16

A '17 was last year. The year before would have been '16.

17

18

Q This year -- and was there a meeting this year in which the annual brand plan for 2017 --

19

A For 2018, you mean.

20

Q For 2018 was reviewed --

21

22

A 2018, yes, was presented and reviewed, and I was not in that meeting.

1 Q For the meeting during 2016 --

2 A For '17.

3 Q For the annual brand plan for 2017, did  
4 you participate in that meeting?

5 A I did.

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

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12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]

1 to the sales organization. It is all about  
2 communication, not about development.

3 MR. FRANK: Let's mark this as Richter  
4 Exhibit 6, Bates GENC 0004611 to 4628.

5 (Richter Deposition Exhibit 6 was marked  
6 for identification and is attached to the  
7 transcript.)

8 (Discussion held off the record.)

9 Q Please review this document and let me  
10 know when you are done.

11 A Okay.

12 Q Can you turn to the second page, Bates  
13 number 4612.

14 A Yes. Brand Overview page.

15 Q Correct. Have you ever seen this page  
16 before, this slide before?

17 A I can't say I have seen this specific  
18 slide before.

19 Q You can't say one way or another?

20 A No.

21 [REDACTED]

22 [REDACTED]



1 [REDACTED]  
2 [REDACTED]  
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4 [REDACTED]  
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20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]

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12 Q No meaning no, there were --

13 A No.

14 Q -- no more than 20?

15 Can you turn to the second to the last  
16 page, Bates number 4627. Do you recall seeing  
17 this slide before?

18 A No.

19 Q No, you don't recall?

20 A No, I don't recall.

21 Q Can you turn to the last page, 4628. Do  
22 you recall having seen this slide before?

1 A No, I have not.

2 Q Can you turn to 4163.

3 A 4163. This one?

4 Q Correct. Do you recall seeing this slide  
5 before?

6 A I have not.

7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]

12 (Discussion held off the record.)

13 MR. FRANK: Let's mark as Exhibit 8 Bates  
14 number GENC 0044731 through 44761. This is  
15 Maturen 2.

16 MS. RODRIGUES: Okay.

17 (Richter Deposition Exhibit 8 was marked  
18 for identification and is attached to the  
19 transcript.)

20 Q Please review the document and let me know  
21 when you are done.

22 (Discussion held off the record.)

1 Davidoff, Padron and Opus X. Do you see that?

2 A Yes.

3 Q Is that correct? Is that what it says?

4 A Yes.

5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
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19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED] r .



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[REDACTED]

2

[REDACTED]

3

Q Can you look at 44736.

4

A 44736.

5

Q Do you know, is that distribution of

6

channel trends indicated on the wheel on the right

7

hand part of the screen, is that generally

8

accurate, to your knowledge?

9

A If it has been run and put on the report,

10

it appear to be.

11

Q Would that be yes?

12

A Yes.

13

[REDACTED]

14

[REDACTED]

15

[REDACTED]

16

[REDACTED]

17

[REDACTED]

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10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]

16 (Discussion held off the record.)

17 MR. FRANK: Let's mark this as Exhibit 9,  
18 GENC 0009737 to 9739.

19 (Richter Deposition Exhibit 9 was marked  
20 for identification and is attached to the  
21 transcript.)

22 Q Please review that document and let me

1 know when you are ready.

2 A I am ready.

3 Q Can you please identify this document.

4 A It appears to be an email that I sent, so  
5 you did have my emails.

6 Q To whom did you send it?

7 A Steve Abbot.

8 Q It is at General Cigar?

9 A General Cigar.

10 Q Was he the Senior Brand Manager for  
11 General Cigar --

12 A He is.

13 Q -- in charge of General Cigar's Cohiba  
14 cigar?

15 A He is.

16 Q Is this from November 6, 2015, this email?

17 A It appears to be.

18 Q Do you recall having any discussions with  
19 Mr. Abbot about this -- the humidor picture on  
20 9738?

21 A I did not.

22 Q Do you recall if you had any discussions

1 with anyone else at General Cigar concerning the  
2 humidor --

3 A I had no discussions with anybody at  
4 General Cigar on this.

5 Q Okay. Are you familiar with the Cohiba  
6 Blue cigar?

7 A I am.

8 Q What is that? What is it?

9 A It is a new offering in our Cohiba lineup.

10 Q Did you participate in any conversations  
11 or meetings concerning the creation of the Cohiba  
12 Blue cigar?

13 A I did not.

14 Q When you first started at General Cigar,  
15 was there -- did General Cigar have a website for  
16 its Cohiba cigar?

17 A I don't remember.

18 Q Does it currently have a website? I  
19 believe you testified.

20 A Yes, we discussed that.

21 Q Were you involved in the development of  
22 the current version of the Cohiba.com website?

1           A   No, I was not.

2           Q   Does General Cigar have the Facebook  
3   account for its Cohiba cigar, to your knowledge?

4           A   I am not sure.

5                   MR. FRANK: Mark this as Richter 10, Bates  
6   number CT0033025 to 33041.

7                   (Richter Deposition Exhibit 10 was marked  
8   for identification and is attached to the  
9   transcript.)

10                  (Discussion held off the record.)

11           MS. RODRIGUES: I will note for the record  
12   our objections to the authenticity and  
13   admissibility of this document, a standing  
14   objection.

15           Q   Can you turn to 330 -- I am sorry. Have  
16   you had a chance to review it?

17           A   Yeah. Where do you want to go?

18           Q   33027.

19           A   Okay.

20           Q   Do you see here, on the right-hand column,  
21   there is a milestone section?

22           A   Yeah.

1           Q   What is your understanding of what these  
2   Facebook milestones are?

3           A   I have no clue. I have never seen this.

4           Q   Looking at this document, do you have any  
5   idea what this document is?

6           MS. RODRIGUES: Objection.

7           A   From just the logo up here, it is  
8   Facebook. I am not a Facebook user.

9           Q   Facebook. Is this -- can you tell if this  
10   is a particular page within Facebook?

11          A   Not really. Like I said, I am not a  
12   Facebook user. I don't -- I am not on Facebook.

13          Q   Can you turn to 33034 and 33035, please.

14          A   Yep.

15          Q   You see there is sort of a window in the  
16   center?

17          A   Yes.

18          Q   Can you read that into the record, please.

19          A   Cohiba cigars are introduced worldwide,  
20   with the exception of the United States. The  
21   introduction features three sizes: Panatela,  
22   Corona Especial and Lancero.

1 concerns?

2 A I am not sure what it concerns.

3 Q Turn to 33030 to 31, back up a few pages.

4 A There is 30, 31.

5 Q Just so you can see the whole caption.

6 Can you just read, starting from the caption, and  
7 the date down into the record.

8 MS. RODRIGUES: On which page?

9 MR. FRANK: 33030.

10 Q I think you can read the whole entry.

11 A Right here?

12 Q Correct.

13 A Cohiba Black arrives, is that 2006, the  
14 highly-acclaimed Cohiba Black is introduced. This  
15 rich and complex cigar features a dark maduro  
16 wrapper and aged Dominican Piloto binder.

17 Q Then, on 33031, do you see a comment  
18 beneath the picture?

19 A It says -- looks like a gentleman's name,  
20 Dave Pipher, have to sample those in Cuba in the  
21 new year.

22 Q Does General Cigar sell a Cohiba Black

1 cigar?

2 A We do.

3 Q Does General Cigar sell Cohiba Black  
4 cigars in the United States -- in Cuba?

5 A No.

6 Q Does General Cigar distribute Cohiba Black  
7 cigars in Cuba?

8 A No.

9 Q Does General Cigar distribute Cohiba Black  
10 cigars to another entity that would sell them in  
11 Cuba?

12 A No.

13 Q Do you know if General Cigar has a Twitter  
14 account for its Cohiba cigars?

15 A I am not sure.

16 Q Do you know if General Cigar has an  
17 Instagram account for its Cohiba cigars?

18 A I believe so, on Instagram.

19 Q Have you ever visited General Cigar's  
20 Instagram account for its Cohiba cigars?

21 A Yes.

22 Q How many times?



1 A I don't know.

2 Q Approximately?

3 A I really don't know.

4 Q More than once?

5 A More than once.

6 Q More than ten times?

7 A Say -- no, I don't know. Maybe ten or  
8 less.

9 Q Do you know when those ten or less times  
10 occurred?

11 A No.

12 Q In the last year?

13 A I don't know.

14 Q Last two years?

15 A I am -- well, probably in the last two  
16 years.

17 Q Do you know what a hashtag is?

18 A I do know what a hashtag is.

19 Q What is it?

20 A It is a little two lines that go down and  
21 two lines that go across.

22 Q Do you know if a hashtag is used in social

1 media?

2 A Yes. Like I said, I am not the biggest  
3 social media expert here, so yes.

4 Q But do you know if it is used in social  
5 media?

6 A It is used in social media.

7 Q Do you know how it is used in social  
8 media?

9 MS. RODRIGUES: Objection.

10 A I know how it is positioned, I don't know  
11 how to really use it, I don't post.

12 Q Have you ever done a search for hashtag  
13 anything?

14 A No.

15 Q I should say have you ever done a search  
16 for hashtag anything on social media?

17 A No.

18 Q That would include hashtag Cohiba?

19 A No.

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

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[REDACTED]

Q Did you ever participate in any conversations with anyone within General Cigar concerning the use of hashtag Cohiba on social media?

A No, I have not.

Q Have you ever participated in any conversations with anyone at General Cigar concerning user-generated content on General Cigar's social media accounts concerning Cohiba?

A No, I have not.

Q Have you ever participated with anyone outside of General Cigar concerning the use of hashtag Cohiba on General Cigar's social media accounts?

A No, I have not.

Q Have you ever participated in a conversation with anyone outside of General Cigar concerning user-generated content concerning Cohiba on General Cigar's social media accounts?

1 A No, I have not.

2 Q Do you know what a Facebook page name is?

3 A I know what Facebook is.

4 Q Do you know what a Facebook page name is?

5 A No.

6 Q Do you know if there is any statement on  
7 any materials that accompany General Cigar's  
8 Cohiba cigar boxes indicating that they are not  
9 associated with the Cuban Cohiba cigar?

10 A Repeat that.

11 Q Do you know if there is any statement on  
12 any materials that accompany General Cigar's  
13 Cohiba cigar boxes indicating that they are not  
14 associated with the Cuban Cohiba cigar?

15 A The only thing we have is a stamp on the  
16 bottom that says the product of the Dominican  
17 Republic.

18 Q But other than that?

19 A No.

20 Q Is there any statement indicating that  
21 there is no association with the Cuban Cohiba  
22 cigar?

1           A   On the Red Dot band, product of  
2   Dominicana, but that's it, no.

3           Q   To your knowledge, are there any  
4   statements on any advertisements for General  
5   Cigar's Cohiba cigars indicating that they're not  
6   associated with the Cuban Cohiba cigar?

7           A   Not to my knowledge.

8           Q   I believe you indicated that General Cigar  
9   sells its Cohiba cigars at retail stores and  
10   liquor stores; is that correct?

11          A   That's correct.

12          Q   Does it also sell General Cigar's Cohiba  
13   cigars at convenience stores --

14           MS. RODRIGUES:  Objection to form.

15          Q   -- to your knowledge?

16          A   Not to my knowledge, we don't have per se  
17   direct convenience store accounts.  That's not to  
18   say that there could be cigars of any brand in a  
19   convenience store that come through distributors.

20          Q   To your knowledge, are there any displays  
21   that accompany the sale of General Cigar's Cohiba  
22   cigars at either the retail locations or the

1 liquor store locations or the convenience store  
2 locations?

3 A Not to my knowledge.

4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]

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18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]



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11 Q Do you recall how you learned about this  
12 litigation?

13 A I believe it was during one -- when one of  
14 the rulings was published, but I am not sure which  
15 one or what it was really about.

16 Q Other than with legal counsel, have you  
17 had any discussions within General Cigar  
18 concerning the present litigation?

19 A No.

20 Q Have you ever had any conversation with  
21 legal counsel about this litigation?

22 A No.

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
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18 [REDACTED]  
19 [REDACTED]  
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9 [REDACTED]  
10 [REDACTED]

11 MR. FRANK: Off the record.

12 (Recess from 12:08 p.m. to 12:58 p.m.)

13 MR. FRANK: Let's mark this as Exhibit 11,  
14 Bates number GENC 0003910 to 3932.

15 (Richter Deposition Exhibit 11 was marked  
16 for identification and is attached to the  
17 transcript.)

18 Q Please review that and let me know when  
19 you are done. I will just be asking you a  
20 question about one page, but please review the  
21 whole document.

22 A Okay.

1           Q   Do you recall any discussions with anyone  
2   in sales about counterfeit Cohiba cigars?

3           A   With a Region Manager, yes.

4           Q   When did that conversation or  
5   conversations occur?

6           A   A couple years ago.

7           Q   Was it just one conversation or multiple  
8   conversations?

9           A   Probably one to two conversations.

10          Q   Do you recall what year that was in?

11          A   '15'ish.

12           [REDACTED]

13           [REDACTED]

14           [REDACTED]

15           [REDACTED]

16           [REDACTED]

17           [REDACTED]

18           [REDACTED]

19           [REDACTED]

20           [REDACTED]

21           [REDACTED]

22           [REDACTED]

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Q Do you know if any other General Cigar  
brands have Cuban equity or equities?

12

13

14

A Do you mean do they have -- are there  
counterpart Cuban brands, is that what you are  
asking?

15

16

17

Q To your knowledge and understanding, do  
any other General Cigar brands have Cuban  
equities?

18

A Yes.

19

Q And which brands are those?

20

A Punch, Partagas, Hoyo de Monterrey.

21

Q Any others?

22

A I think maybe La Gloria.



1 Q What are the Cuban equities for the  
2 Partagas brand cigar?

3 A Partagas, it is just a brand.

4 Q But what is your understanding of what the  
5 Cuban equities are of Partagas?

6 A Partagas, the brand. I am referencing to  
7 you that there is a Punch and there is a Punch  
8 Cuban, there is a Partagas and there is a Partagas  
9 Cuban, just like there is a Cohiba and a Cohiba  
10 Cuban.

11 MR. FRANK: Let's mark this as Richter  
12 Exhibit 12, GENC 0004107 and then 4132 to 4149.

13 (Discussion held off the record.)

14 (Richter Deposition Exhibit 12 was marked  
15 for identification and is attached to the  
16 transcript.)

17 Q Review this, let me know when you are done.

18 A Okay.

19 Q Turn your attention to 4141, please. You  
20 see here it says Partagas Vision. Do you just  
21 want to read this slide into the record, please.

22 A The whole slide?

1           A    The IPCPR show.

2           Q    Do you know where the webinars are stored  
3 on General Cigar's system?

4           A    It typically would be within the Brand  
5 Managers.

6           [REDACTED]  
7 [REDACTED]  
8           [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11          [REDACTED]  
12 [REDACTED]  
13          [REDACTED]  
14 [REDACTED]  
15          [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18          [REDACTED]  
19          [REDACTED]  
20 [REDACTED]  
21          [REDACTED]  
22          [REDACTED]

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Q Have you ever been deposed before?

5

A I have not.

6

MR. FRANK: Those are all of my questions.

7

8

MS. RODRIGUES: Okay. Can we take just 5  
minutes? I will take a quick look and see if I  
have anything further.

10

MR. FRANK: Okay.

11

(Recess from 1:24 p.m. to 1:27 p.m.)

12

CROSS-EXAMINATION BY COUNSEL FOR THE RESPONDENT

13

BY MS. RODRIGUES:

14

15

16

Q Mr. Richter, I believed you testified  
earlier that you weren't on Facebook; is that  
correct?

17

18

A I don't actively use Facebook. I have a  
Facebook account, but I do not actively use it.

19

MS. RODRIGUES: Nothing further.

20

MR. FRANK: That's fine.

21

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(Off the record at 1:29 p.m.)

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ACKNOWLEDGEMENT OF DEPONENT

I, EUGENE PAUL RICHTER, III, do hereby  
acknowledge that I have read and examined the  
foregoing testimony, and the same is a true,  
correct and complete transcription of the testimony  
given by me and any corrections appear on the  
attached Errata sheet signed by me.

\_\_\_\_\_

(DATE)

\_\_\_\_\_

(SIGNATURE)

No. 164366

Re: Deposition of Eugene Paul Richter, III

Date: 11/2/2017

Case: Empresa Cubana Del Tabaco -v- General Cigar Co., Inc. (TTAB)

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12/15/17

(Date)

(Signature)

(Signature)

No. 164366

Re: Deposition of Eugene Paul Richter, III

Date: 11/2/2017

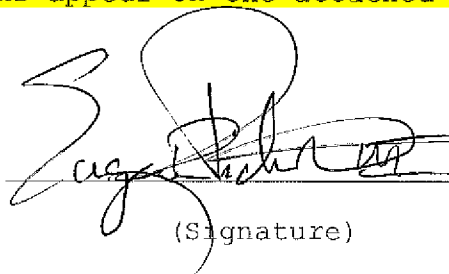
Case: Empresa Cubana Del Tabaco -v- General Cigar Co., Inc. (TTAB)

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ACKNOWLEDGMENT OF DEPONENT

I, Eugene Paul Richter, III, do hereby acknowledge that I have read and examined the foregoing testimony, and the same is a true, correct and complete transcription of the testimony given by me and any corrections appear on the attached Errata sheet signed by me.

12/1<sup>st</sup>/17  
(Date)

  
(Signature)

1 CERTIFICATE OF SHORTHAND REPORTER - NOTARY PUBLIC

2 I, LESLIE D. ETHEREDGE, Registered Merit  
3 Reporter, Certified Court Reporter and Notary  
4 Public within and for the State of Virginia, do  
5 hereby certify:

6 That EUGENE PAUL RICHTER, III, the witness  
7 whose deposition is hereinbefore set forth, was  
8 duly sworn by me before the commencement of such  
9 deposition and that such deposition was taken  
10 before me and is a true record to the best of my  
11 ability of the testimony given by such witness.


12 I further certify that the adverse party,  
13 General Cigar Co., Inc. and Culbro Corp. was  
14 represented by counsel at the deposition.

15 I further certify that the deposition of  
16 EUGENE PAUL RICHTER, III occurred at the offices  
17 of ECKERT SEAMANS CHERIN & MELLOTT, 919 East Main  
18 Street, Suite 1300, Richmond, Virginia on  
19 Thursday, November 2, 2017, commencing at 9:00  
20 a.m. to 1:29 p.m.

21 I further certify that I am not related to  
22 any of the parties to this action by blood or

1 marriage, I am not employed by or an attorney to  
2 any of the parties to this action, and that I am  
3 in no way interested, financially or otherwise, in  
4 the outcome of this matter.

5 IN WITNESS WHEREOF, I have hereunto set my  
6 hand this 14th day of November, 2017.

7  
8   
9 LESLIE D. ETHEREDGE, Notary Public in  
10 and for the Commonwealth of Virginia  
11 Registration No: 116406  
12 My commission expires February 28, 2019  
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Transcript of Eugene Paul Richter, III  
Conducted on November 2, 2017

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<hr/> <b>\$</b> <hr/> <b>\$1</b> 75:5, 75:6, 75:7, 75:15	<hr/> <b>1</b> <hr/> <b>1</b> 150:11, 150:22, 152:20 <b>10</b> 5:3, 22:19, 22:22, 66:12, 104:8, 118:5, 118:7, 141:21 <b>10006</b> 3:8 <b>10020</b> 3:15 <b>101</b> 132:11, 132:20 <b>102</b> 4:17 <b>10205</b> 5:12 <b>105</b> 4:19 <b>107</b> 4:21 <b>1081</b> 1:5 <b>11</b> 5:5, 135:13, 135:15 <b>1147309</b> 1:3 <b>115</b> 5:1	<b>16</b> 97:16 <b>164366</b> 2:1 <b>17</b> 1:5, 97:15, 98:2 <b>170</b> 141:7 <b>1700</b> 3:7 <b>1898273</b> 1:7 <b>1961</b> 142:21, 143:13 <b>1982</b> 120:3 <b>1987</b> 8:7, 9:3, 10:2 <b>1988</b> 9:3, 10:2, 10:13, 11:10 <b>1990</b> 10:21, 11:9, 11:10, 11:15, 12:11 <b>1992</b> 13:7 <b>1995</b> 1:9 <b>1996</b> 13:15 <b>1998</b> 14:7 <b>1999</b> 14:20	<hr/> <b>2</b> <hr/> <b>20</b> 45:2, 63:9, 63:14, 104:10, 104:14 <b>200</b> 57:7, 57:11, 60:10 <b>2000</b> 15:13, 16:6 <b>2002</b> 16:21

HIGHLY CONFIDENTIAL  
Transcript of Eugene Paul Richter, III  
Conducted on November 2, 2017

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<p><b>2003</b> 16:21, 17:18 <b>2005</b> 17:19 <b>2006</b> 18:15, 18:22, 121:13 <b>2008</b> 18:22, 19:5, 64:11, 134:10, 134:13, 149:12, 149:13 <b>2009</b> 59:12, 59:17, 149:13 <b>2010</b> 20:13, 20:15, 22:7, 22:15, 23:21, 32:20, 134:10, 134:13 <b>2013</b> 84:20 <b>2014</b> 84:20 <b>2015</b> 30:4, 77:17, 101:1, 116:16 <b>2016</b> 89:15, 98:1, 100:11, 100:17, 101:1, 111:16 <b>2017</b> 1:22, 59:6, 75:13, 89:14, 97:13, 97:18, 98:3, 100:11, 100:17, 100:20, 141:15, 141:21, 152:19, 153:6 <b>2018</b> 97:19, 97:20, 97:21, 100:20, 100:22 <b>2019</b> 153:11 <b>212.254</b> 3:9 <b>212.335</b> 3:16</p>	<p><b>23219</b> 2:11 <b>24</b> 17:5, 17:10, 150:11 <b>25</b> 26:2, 26:4, 26:5, 40:15, 45:2, 66:12 <b>27</b> 150:11 <b>28</b> 153:11 <b>29</b> 150:22, 152:20 <hr/><b>3</b> <b>3,500</b> 47:11, 47:13, 47:14, 47:16, 47:17, 47:19, 52:21, 79:15, 79:16 <b>30</b> 40:14, 40:22, 121:4 <b>31</b> 121:3, 121:4 <b>31627</b> 145:13 <b>31636</b> 144:13 <b>31643</b> 5:10, 144:5 <b>330</b> 118:15 <b>33027</b> 118:18 <b>33030</b> 121:3, 121:9 <b>33031</b> 121:17 <b>33034</b> 119:13 <b>33035</b> 119:13 <b>33041</b> 5:4, 118:6</p>	<p><b>3915</b> 136:1, 136:2, 136:3 <b>3932</b> 5:6, 135:14 <hr/><b>4</b> <hr/><b>4132</b> 5:7, 140:12 <b>4133</b> 142:12 <b>4141</b> 140:19 <b>4142</b> 141:14 <b>4149</b> 5:8, 140:12 <b>4150</b> 4:19, 105:17 <b>4151</b> 106:5 <b>4152</b> 106:12 <b>4153</b> 106:15 <b>4154</b> 106:18 <b>4155</b> 106:21 <b>4163</b> 107:2, 107:3 <b>4167</b> 4:20, 105:17 <b>44</b> 86:4 <b>44736</b> 114:3, 114:4 <b>44737</b> 114:13 <b>44749</b> 108:18 <b>44760</b> 108:2 <b>44761</b> 4:22, 107:14 <b>45</b> 3:7 <b>4612</b> 102:13</p>	<p><b>4627</b> 104:16 <b>4628</b> 4:18, 102:4, 104:21 <b>4th</b> 89:11, 89:15, 99:1, 145:14 <hr/><b>5</b> <hr/><b>50</b> 57:16, 58:1, 86:14 <b>5730</b> 67:17 <b>5731</b> 67:17 <b>58</b> 135:12 <hr/><b>6</b> <hr/><b>66</b> 4:11 <b>67</b> 4:12, 4:13 <hr/><b>7</b> <hr/><b>77</b> 4:14 <hr/><b>8</b> <hr/><b>804.788</b> 2:12 <b>86</b> 4:15 <hr/><b>9</b> <hr/><b>9</b> 1:22, 152:19 <b>919</b> 2:10, 152:17 <b>9738</b> 116:20 <b>9739</b> 5:2, 115:18</p>
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

Date registered: June 6, 1995

-----	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----	X	

PARTY OFFERING: PETITIONER

**Exhibit 1 to the TTAB Discovery Deposition Transcript of  
Eugene Paul Richter, III, dated November 2, 2017**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

Date registered: June 6, 1995

-----X  
EMPRESA CUBANA DEL TABACO, d.b.a.  
CUBATABACO,

Petitioner,

v.

GENERAL CIGAR CO., INC. and CULBRO  
CORP.,

Respondents.  
-----X

**NOTICE OF DEPOSITION**

TO ALL INTERESTED PARTIES:

PLEASE TAKE NOTICE that, pursuant to Rules 26 and 30 of the Federal Rules of Civil Procedure and Title 37 of the Code of Federal Regulations Section 2.120, counsel for Petitioner will take the following depositions upon oral examination in the above-captioned proceeding, before a certified shorthand reporter or other person authorized to administer oaths:

1. The deposition of Steve Abbot on Wednesday, April 5, 2017, beginning at the hour of 9:00 a.m. (EST);
2. The deposition of Gus Martinez on Thursday, April 6, 2017, beginning at the hour of 9:00 a.m. (EST);

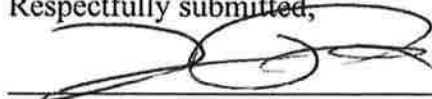


3. The deposition of Alan S. Willner on Friday, April 7, 2017, beginning at the hour of 9:00 a.m. (EST);
4. The deposition of Gene Richter on Tuesday, April 11, 2017, beginning at the hour of 9:00 a.m. (EST);
5. The deposition of Andres Maturen on Wednesday, April 12, 2017, beginning at the hour of 9:00 a.m. (EST); and
6. The deposition of General Cigar Co., Inc. and Culbro Corp. If Respondents designate as their Rule 30(b)(6) representative/s someone other than one or more of the above-identified deponents, then the deposition of such other Rule 30(b)(6) representative/s shall take place on Tuesday, April 4, 2017. The matters of examination during the deposition of Respondents shall be each of the admissions, denials, and averments as well as each defense that Respondents asserted in their Answer to Amended Petition for Cancellation, filed with the Trademark Trial and Appeal Board on July 7, 2011.

Said deposition shall be taken at a location to be determined in or around Richmond, Virginia.

Said deposition shall be recorded stenographically and continue from day to day until completed.

Respectfully submitted,



Michael Krinsky  
David B. Goldstein  
Lindsey Frank  
RABINOWITZ, BOUDIN, STANDARD,  
KRINSKY & LIEBERMAN, P.C.  
61 Broadway, 18<sup>th</sup> Floor  
New York, New York 10006  
(212) 254-1111  
[mkrinsky@rbskl.com](mailto:mkrinsky@rbskl.com)

*Attorneys for Petitioner Empresa Cubana del  
Tabaco d.b.a. Cubatabaco*

### **CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing Notice of Deposition was served on the following by electronic mail this 7<sup>th</sup> day of March, 2017:

Andrew L. Deutsch  
Kerry A. O'Neill  
Rodrigues, Airina  
DLA Piper US LLP  
1251 Avenue of the Americas  
New York, NY 10020  
Telephone: (212) 335-4673  
[andrew.deutsch@dlapiper.com](mailto:andrew.deutsch@dlapiper.com)  
[kerry.o'neill@dlapiper.com](mailto:kerry.o'neill@dlapiper.com)  
[Airina.Rodrigues@dlapiper.com](mailto:Airina.Rodrigues@dlapiper.com)

A handwritten signature in black ink, appearing to be "Lindsey Frank", written over a horizontal line.

Lindsey Frank  
RABINOWITZ, BOUDIN, STANDARD, KRINSKY &  
LIEBERMAN, P.C.  
61 Broadway, 18th Floor  
New York, New York 10006

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

Date registered: June 6, 1995

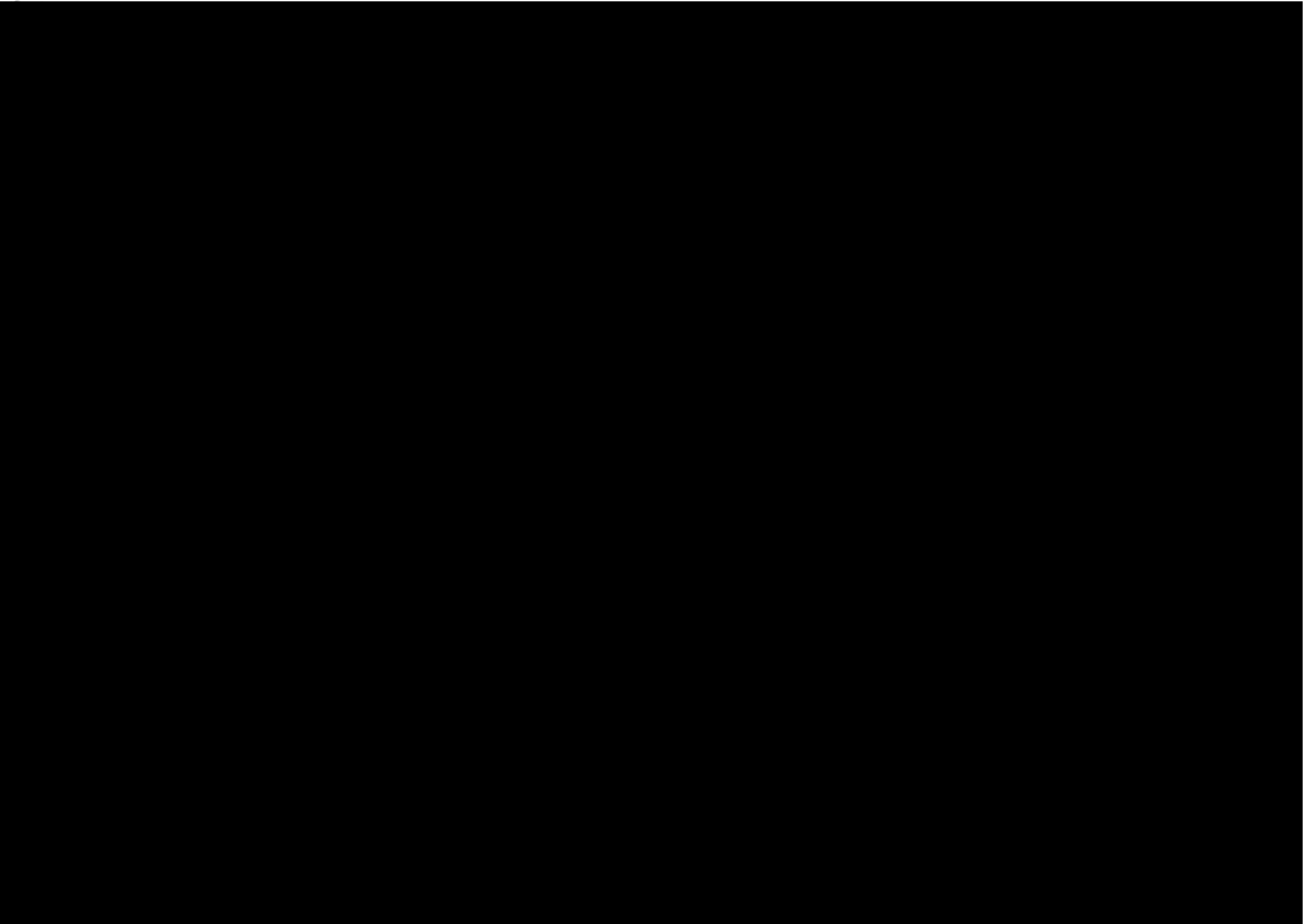
-----	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----	X	

PARTY OFFERING: PETITIONER

**Exhibit 2 to the TTAB Discovery Deposition Transcript of  
Eugene Paul Richter, III, dated November 2, 2017**

11/2/13 EXHIBIT 28  
Richter  
2  
Planet Depos, LLC





**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

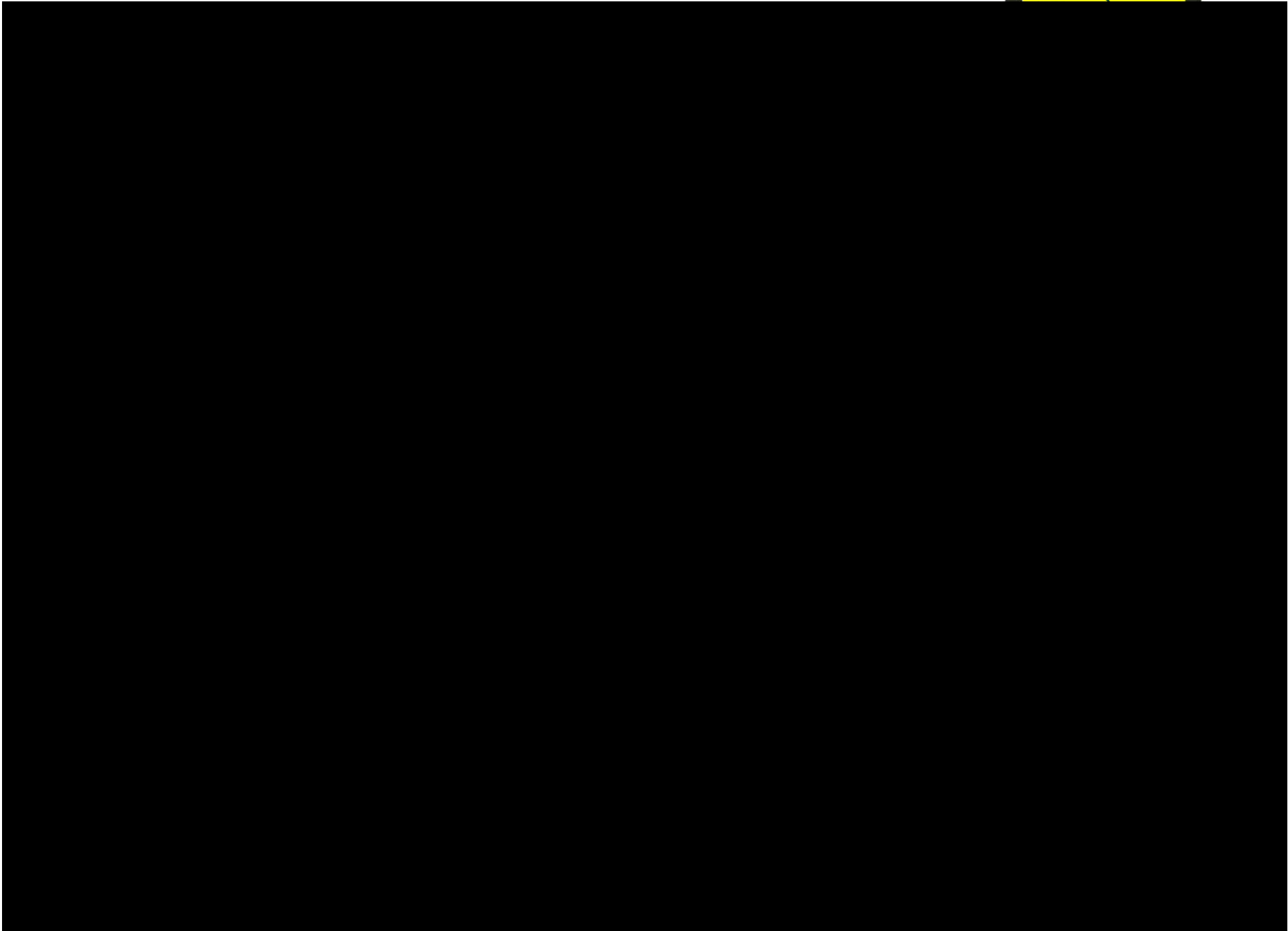
Date registered: June 6, 1995

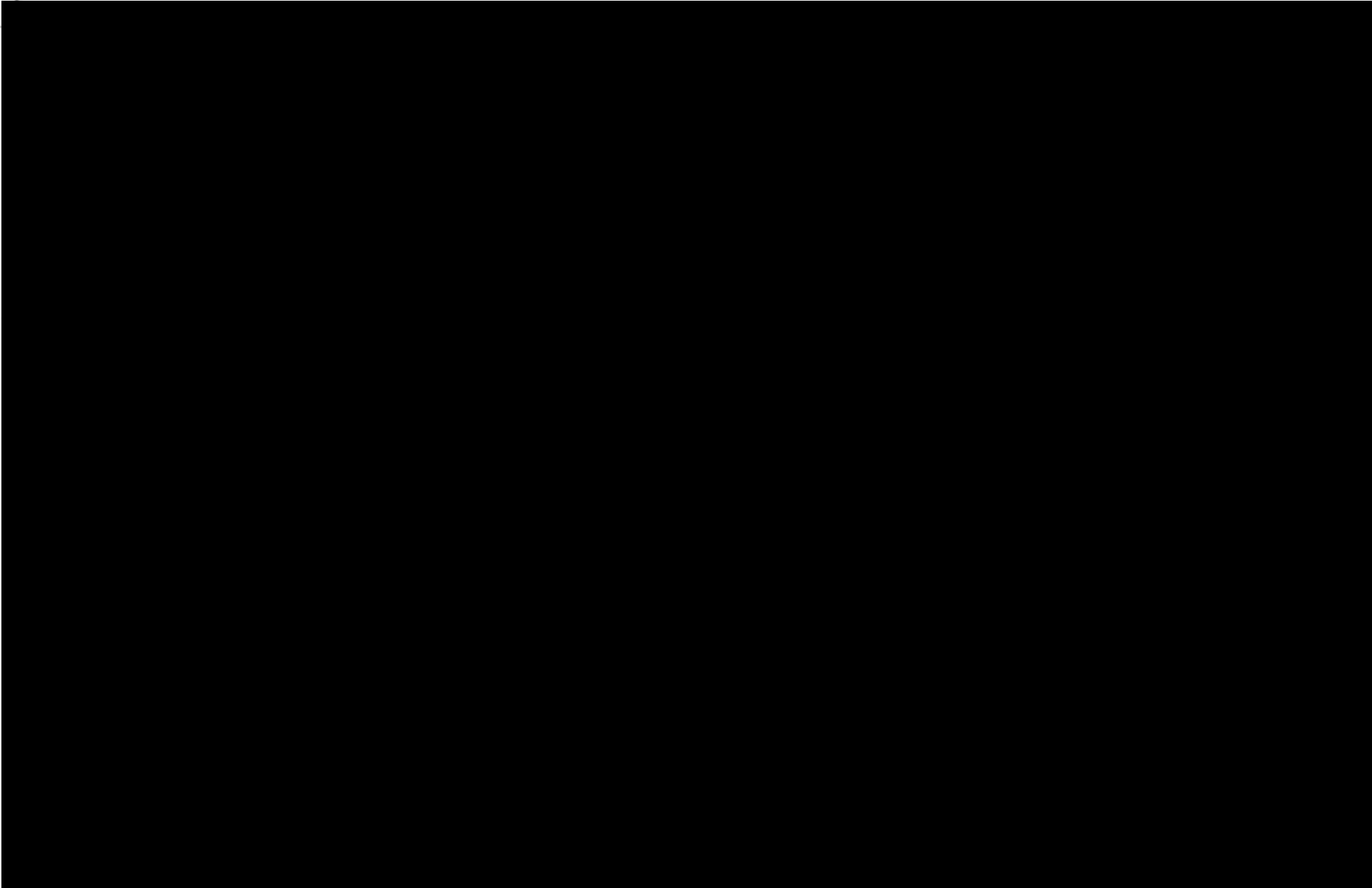
-----	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----	X	

PARTY OFFERING: PETITIONER

**Exhibit 3 to the TTAB Discovery Deposition Transcript of  
Eugene Paul Richter, III, dated November 2, 2017**

11/2/17 EXHIBIT 2E  
Richter  
3





**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

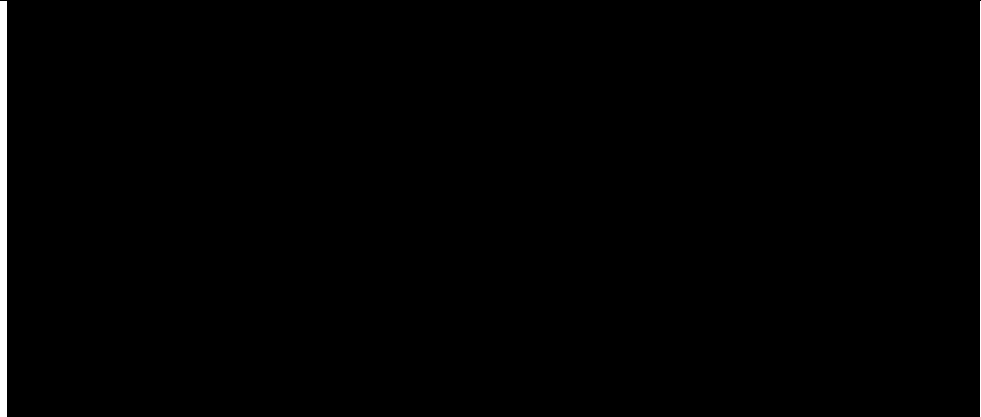
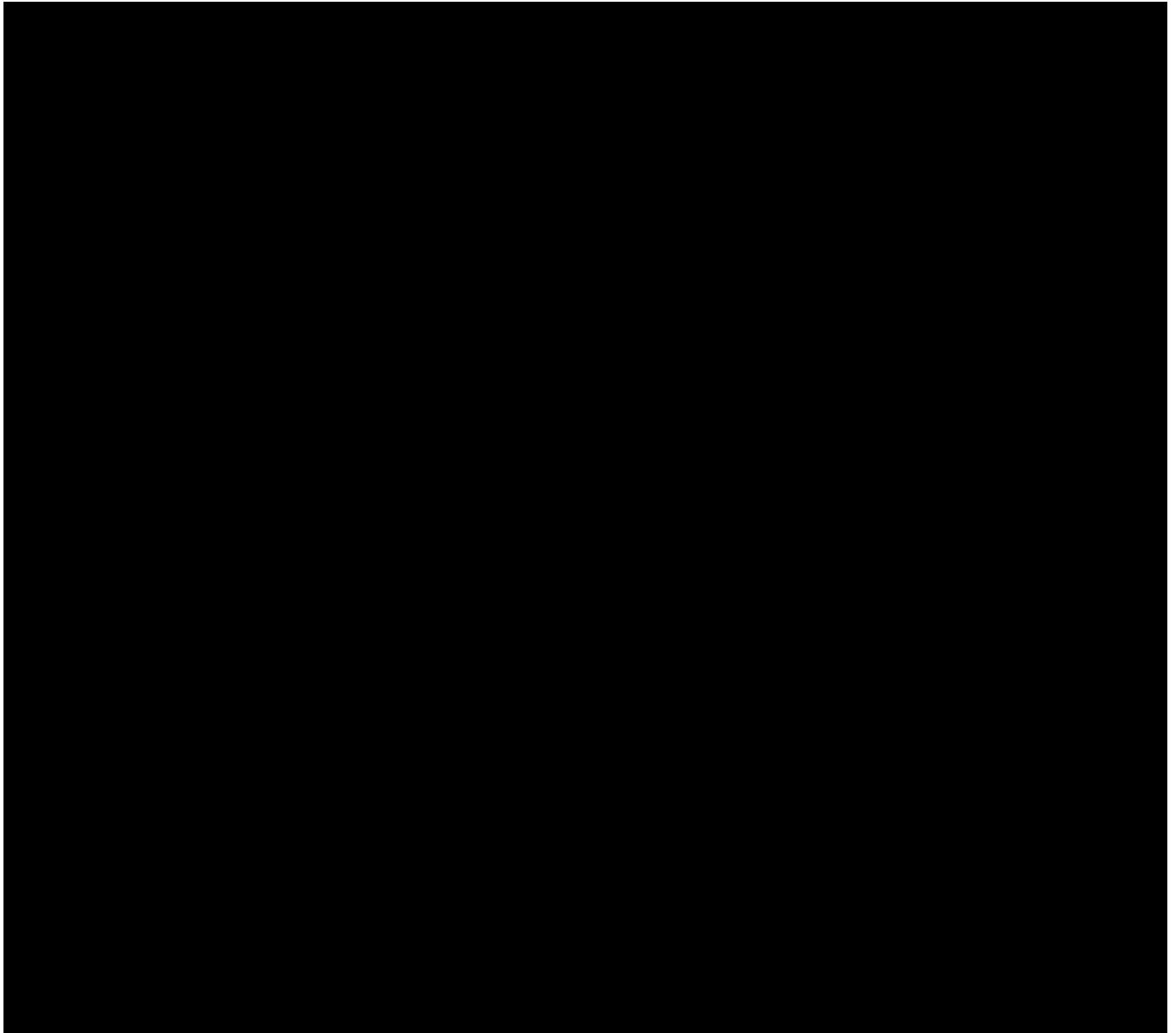
For the mark COHIBA

Date registered: June 6, 1995

	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
	:	
	X	

PARTY OFFERING: PETITIONER

**Exhibit 4 to the TTAB Discovery Deposition Transcript of  
Eugene Paul Richter, III, dated November 2, 2017**



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

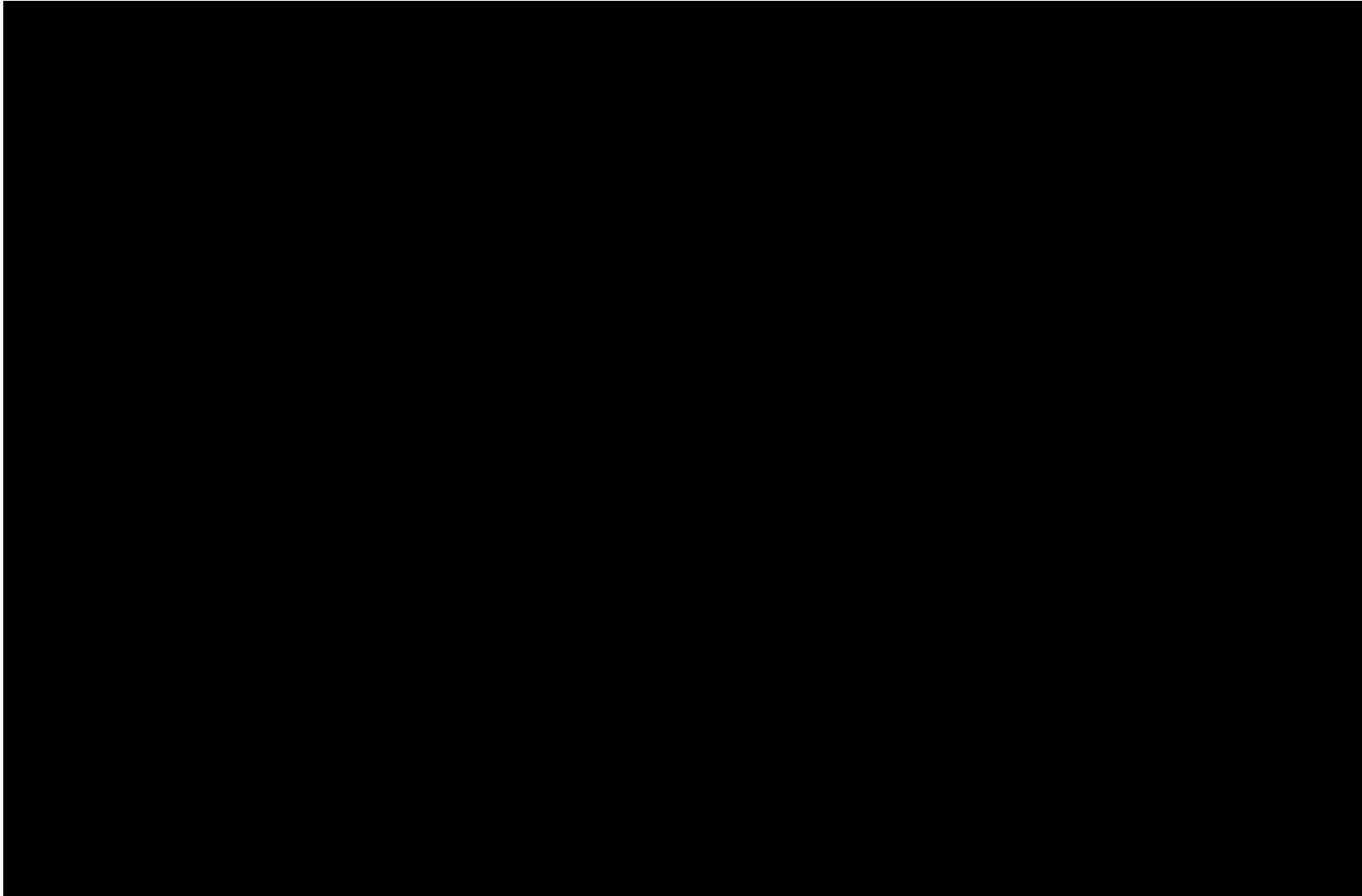
For the mark COHIBA

Date registered: June 6, 1995

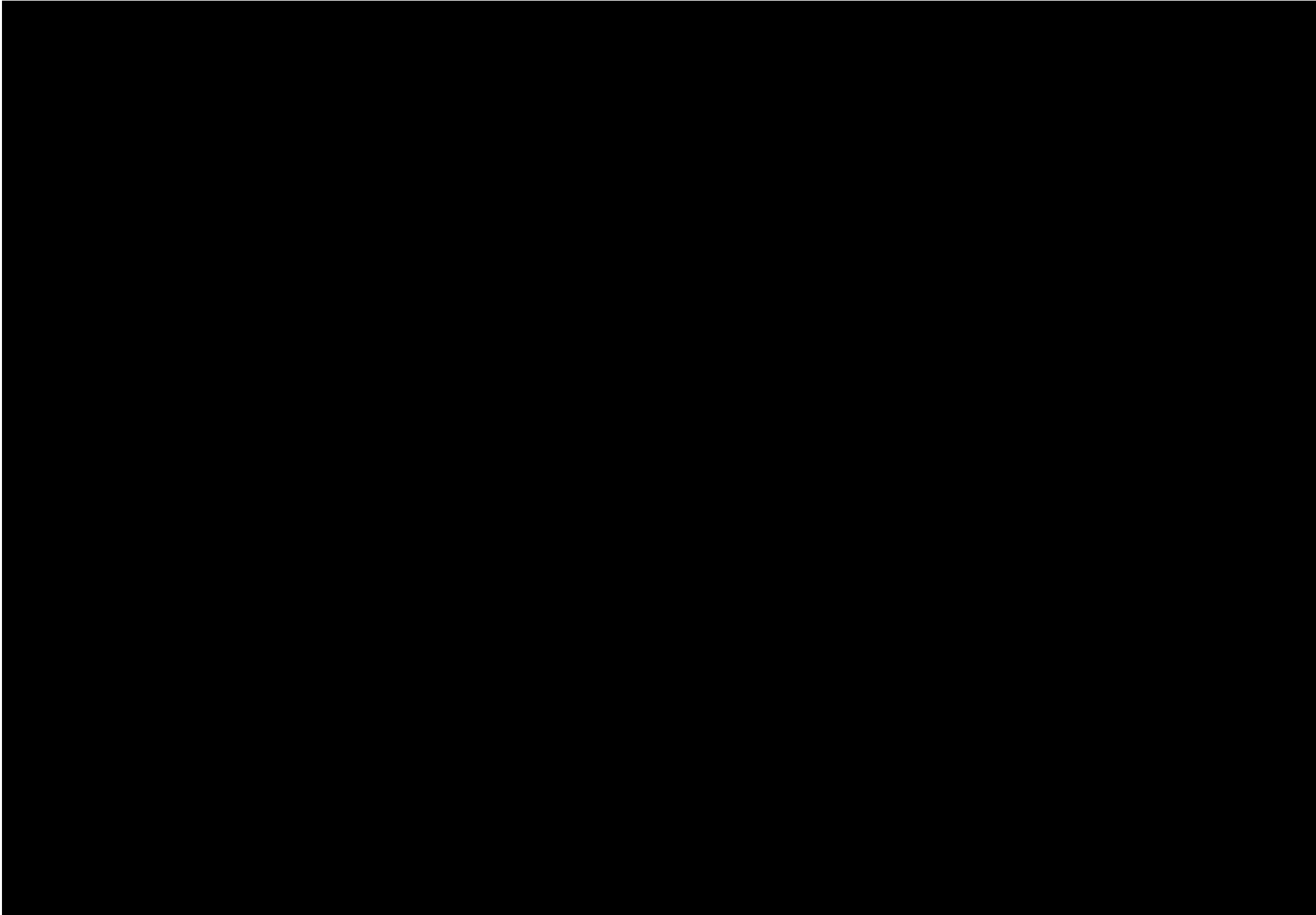
	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
	:	
	X	

PARTY OFFERING: PETITIONER

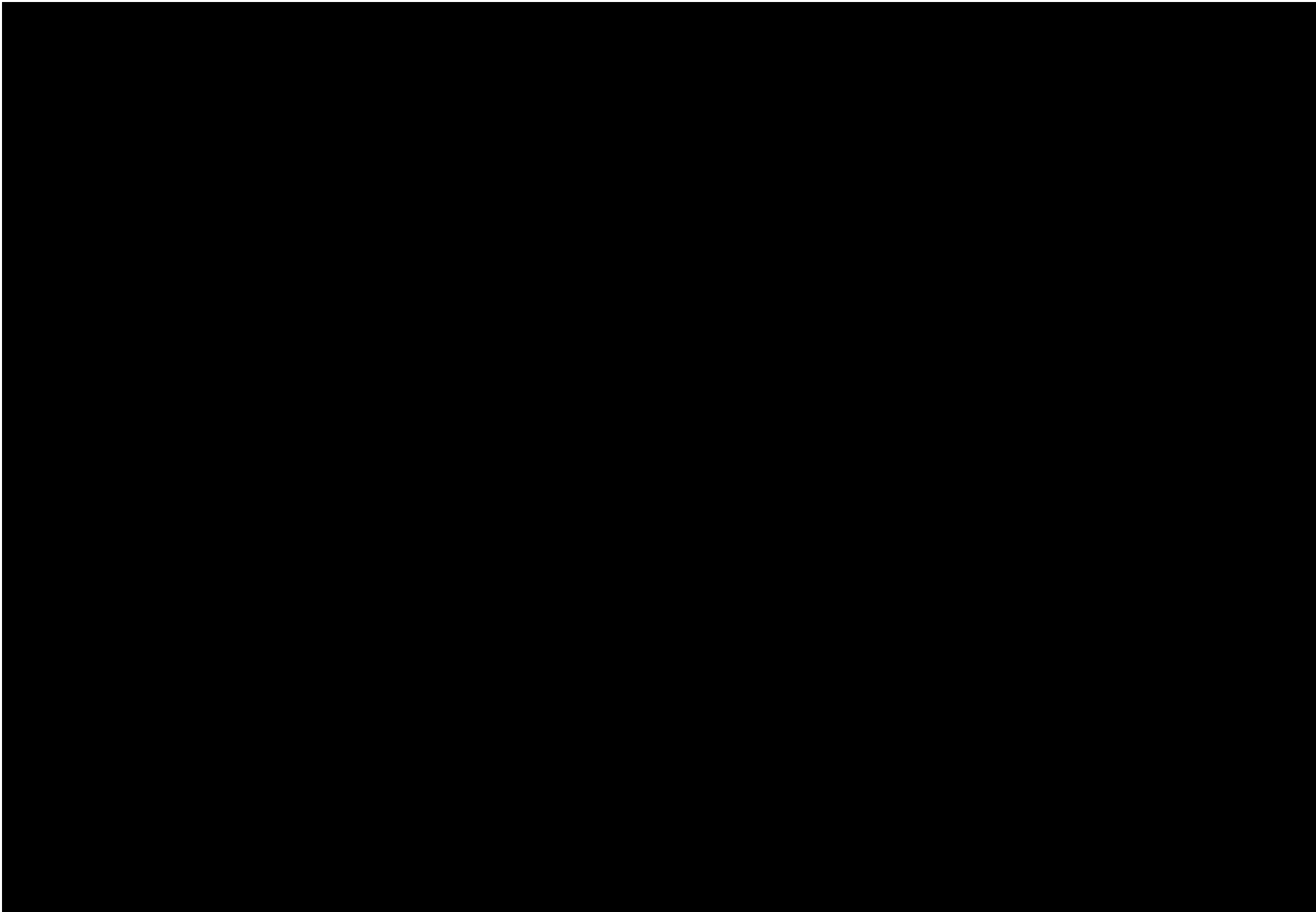
**Exhibit 8 to the TTAB Discovery Deposition Transcript of  
Eugene Paul Richter, III, dated November 2, 2017**

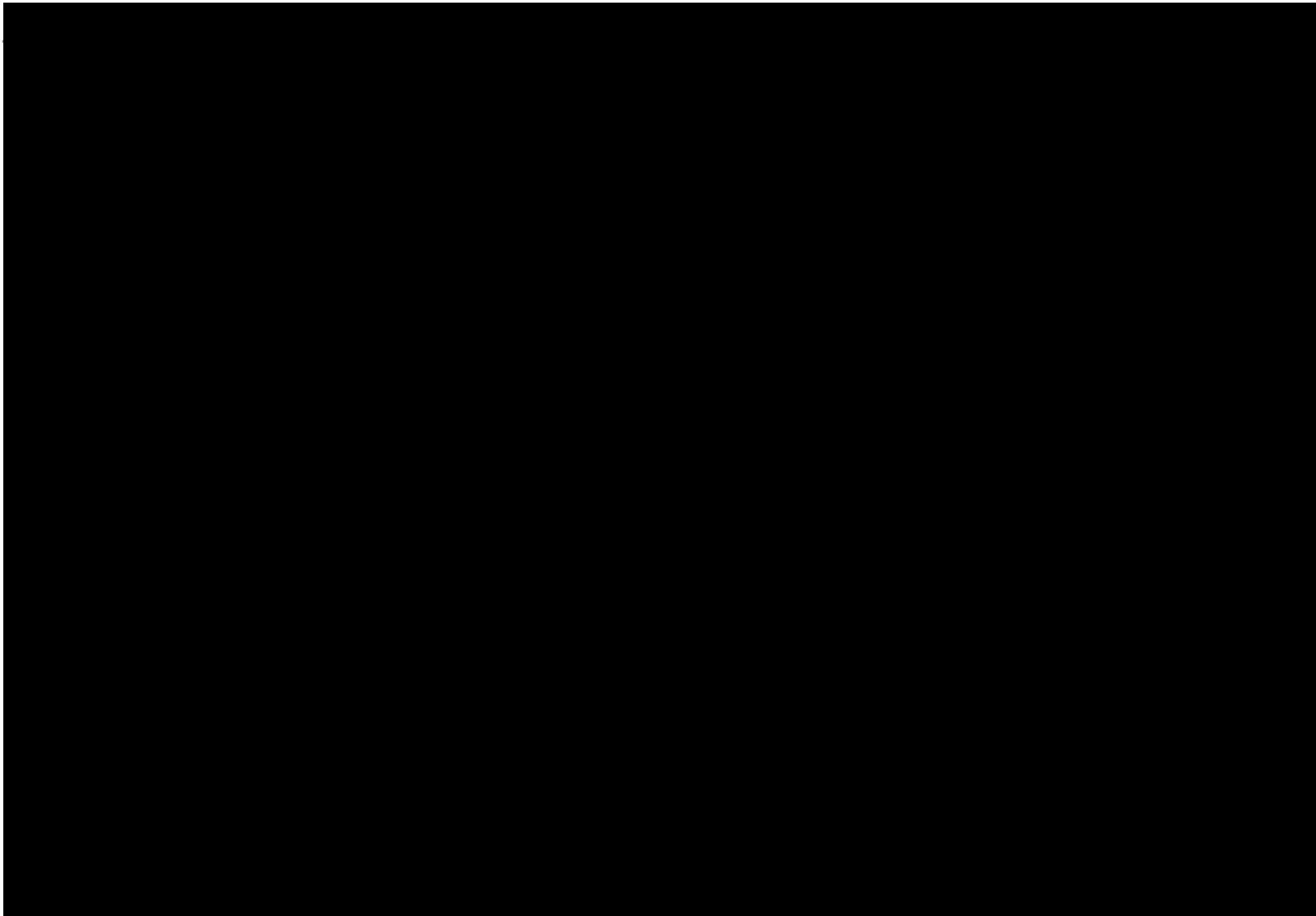


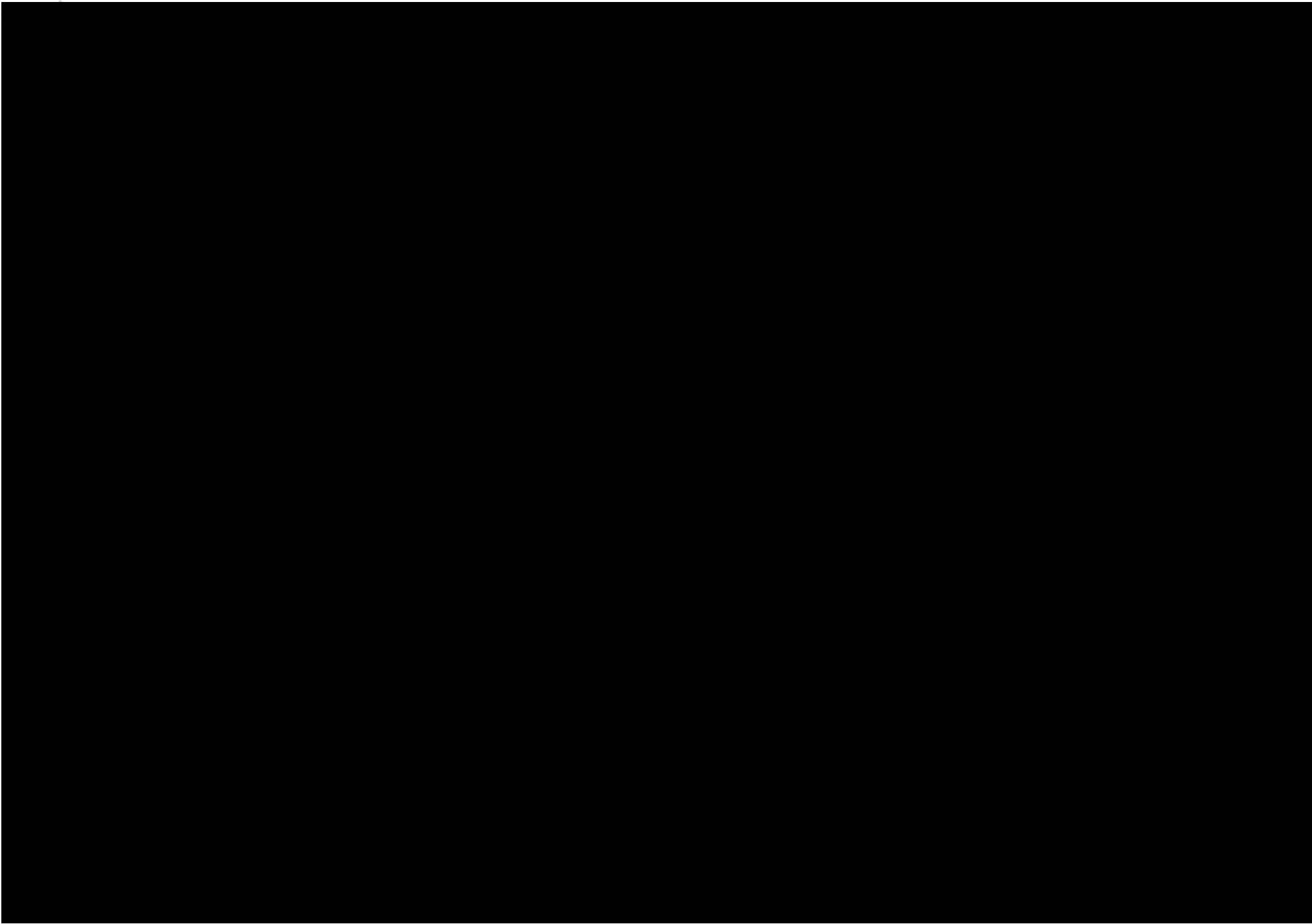


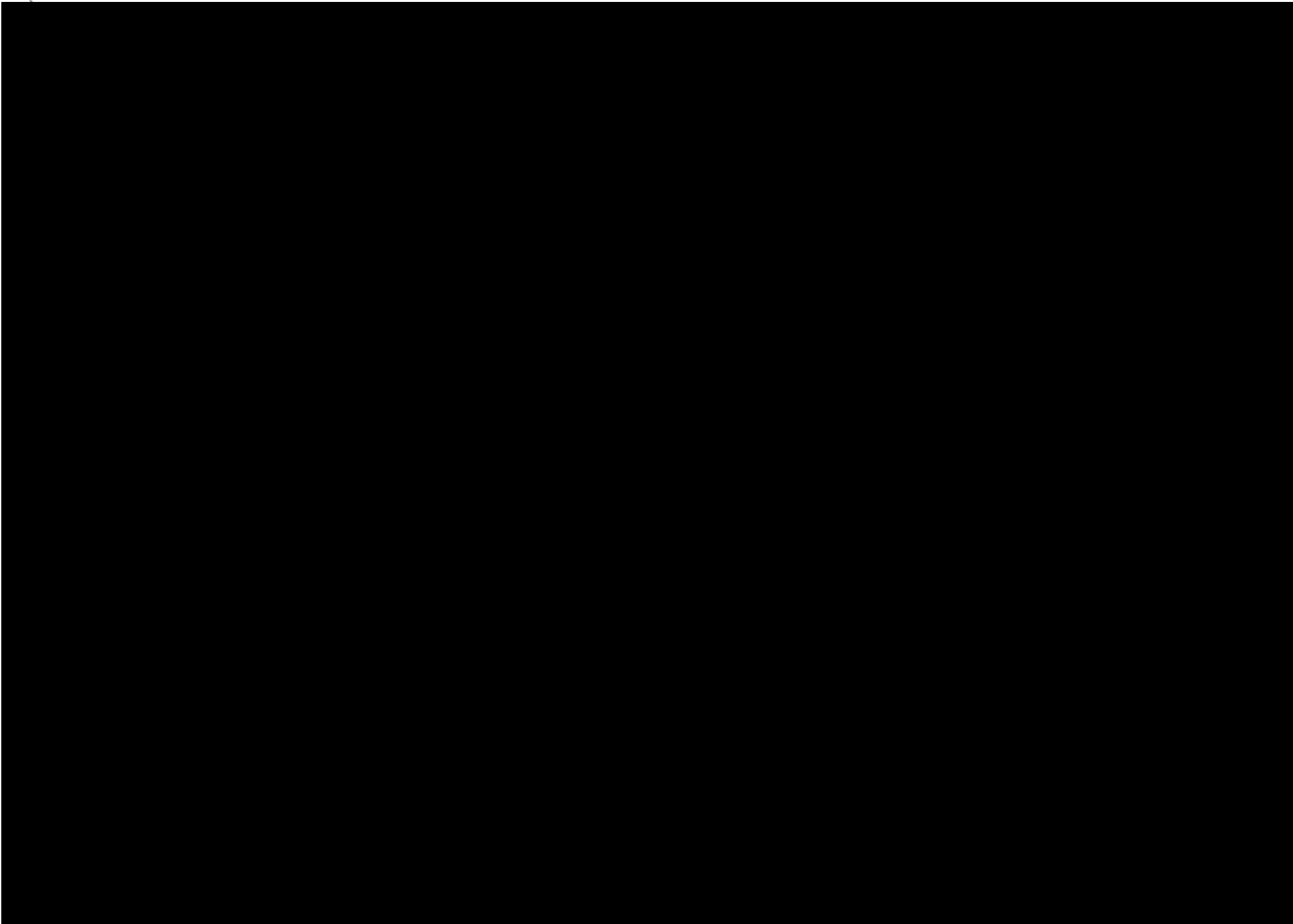


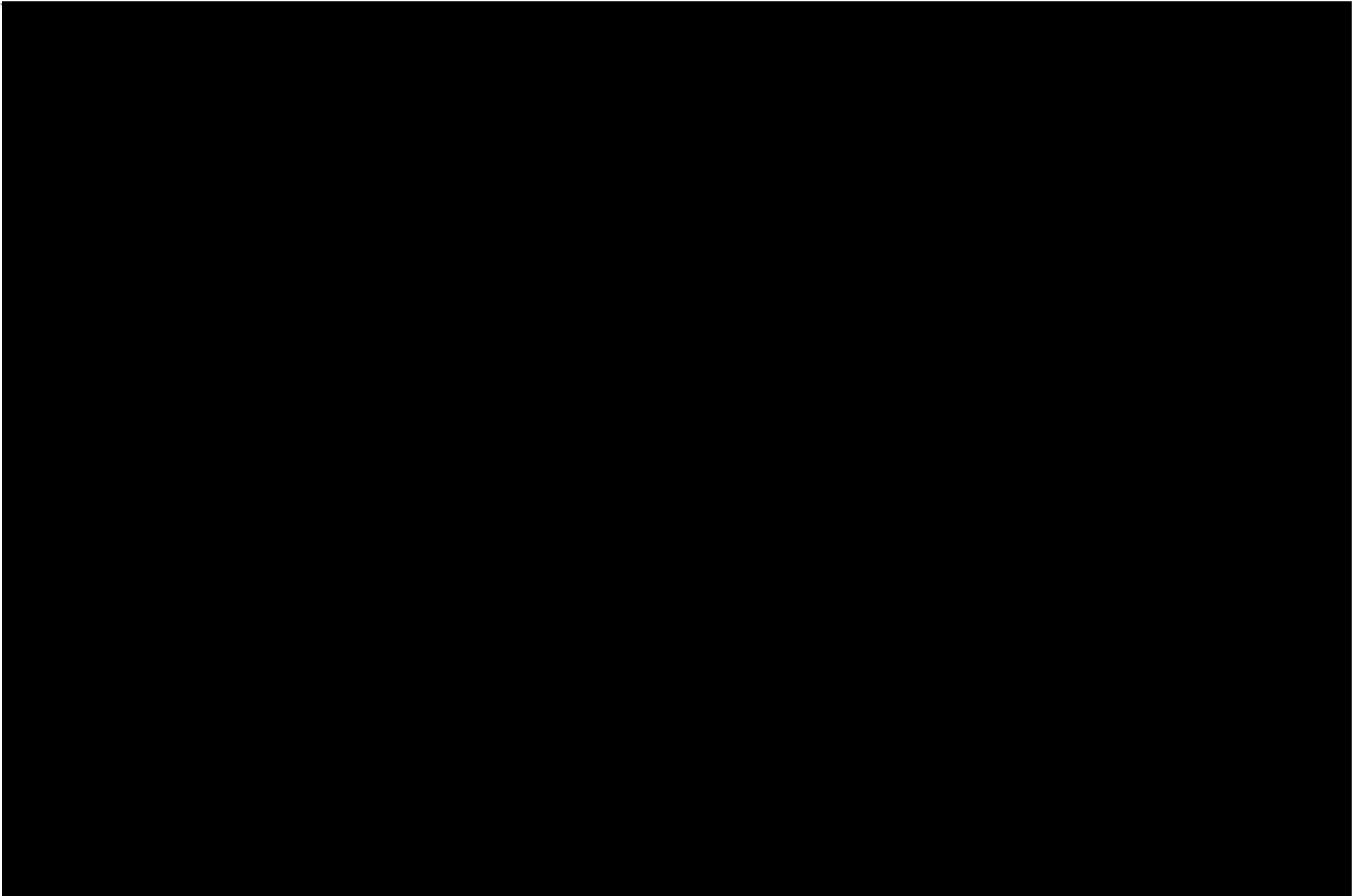


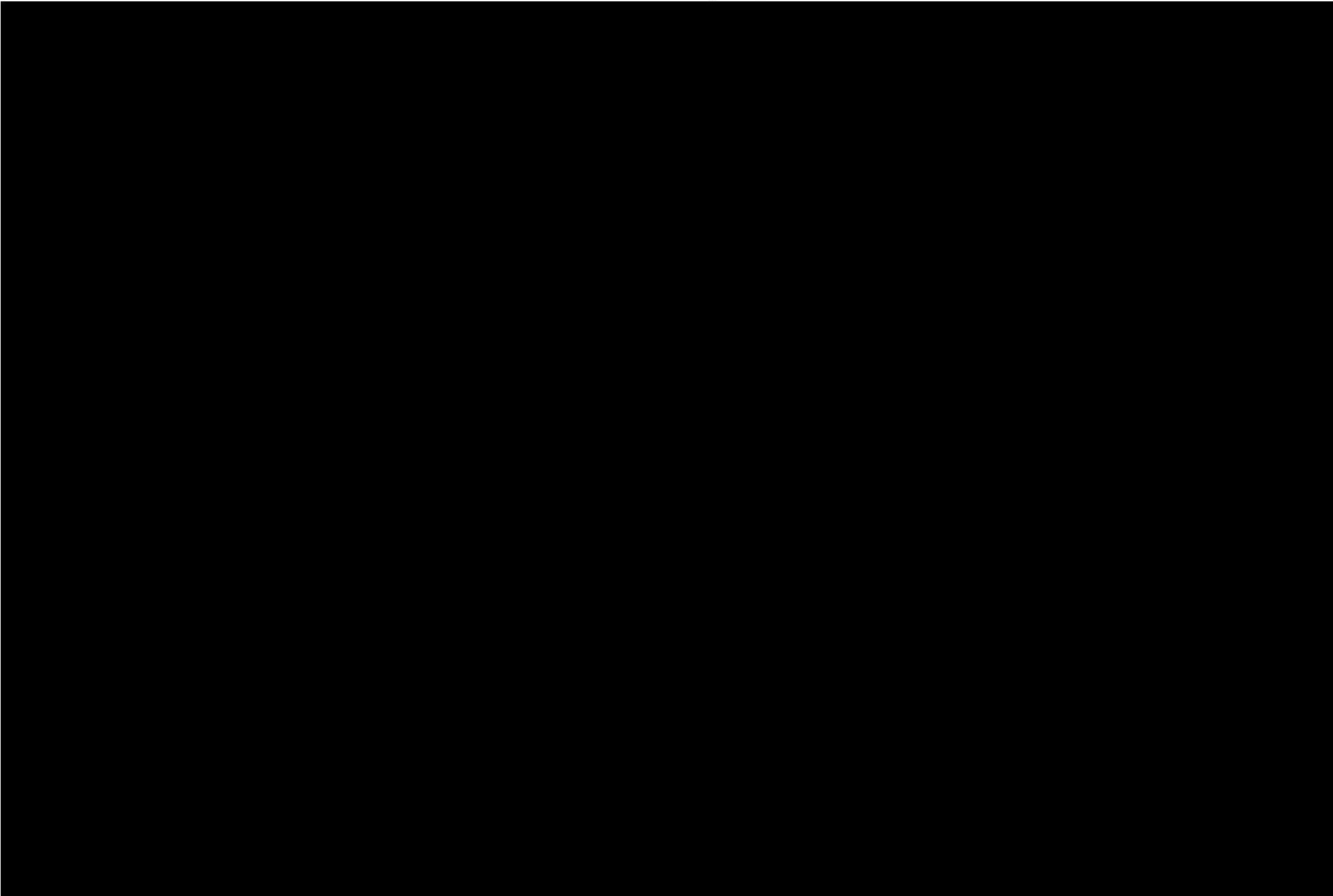




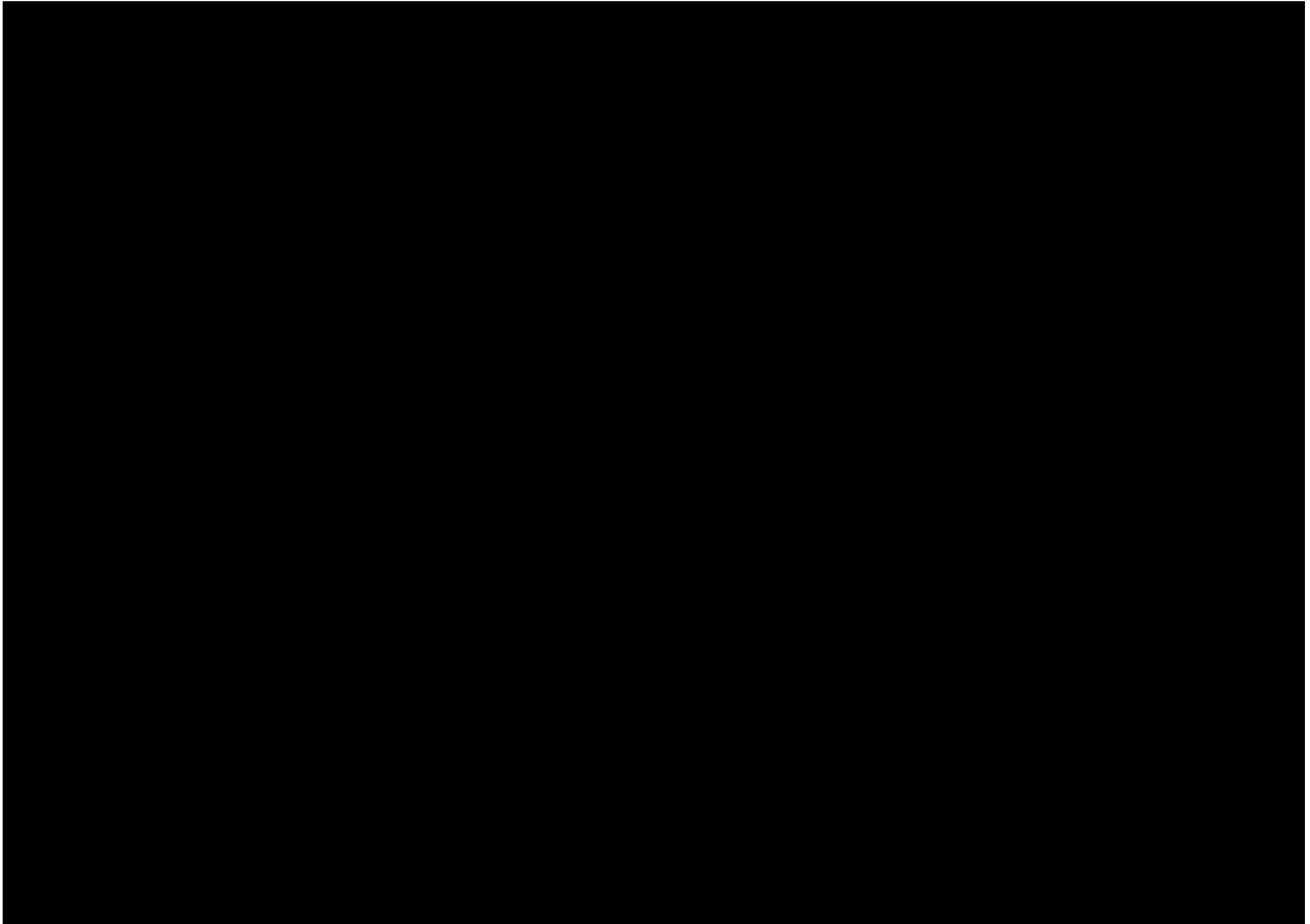


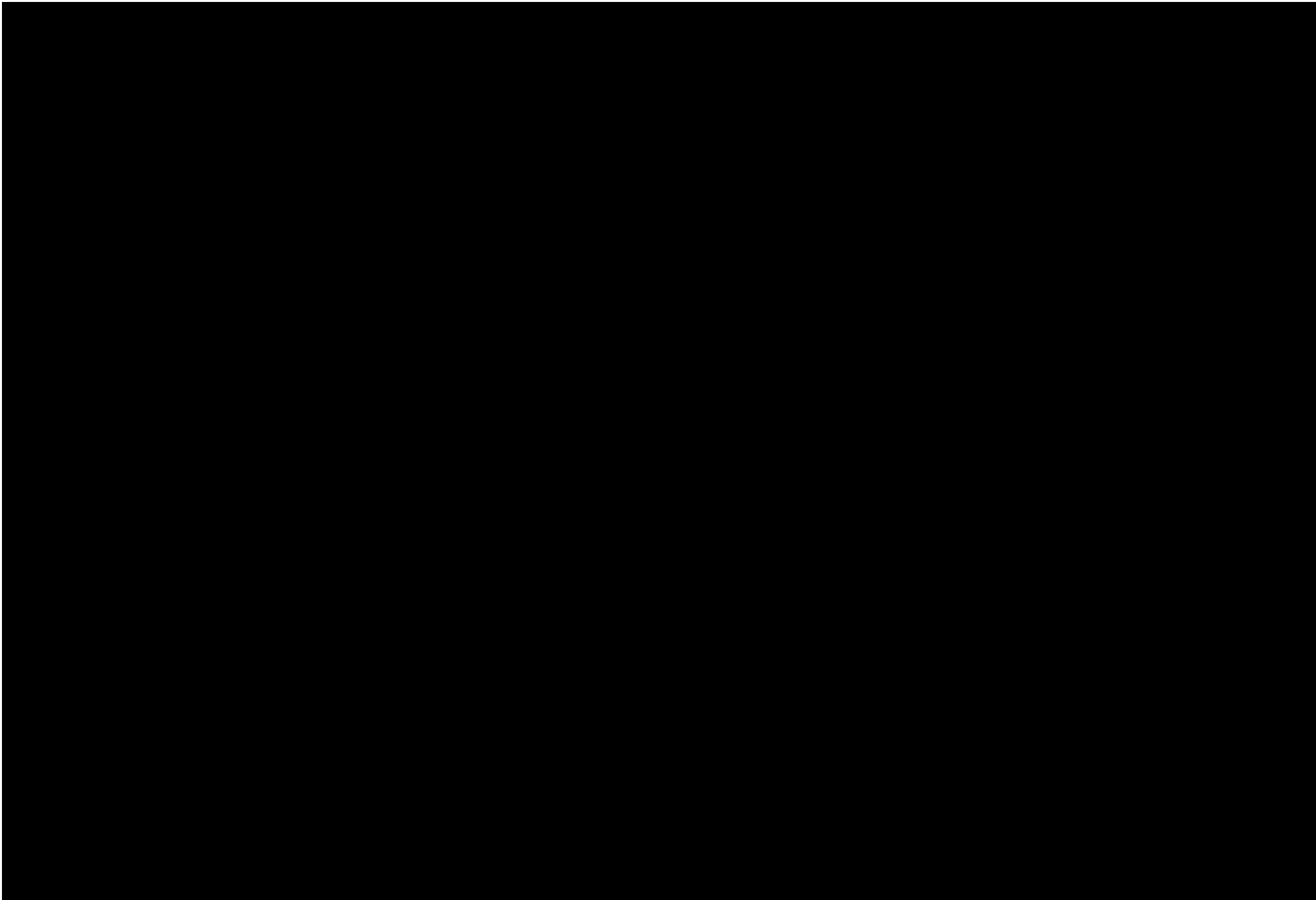


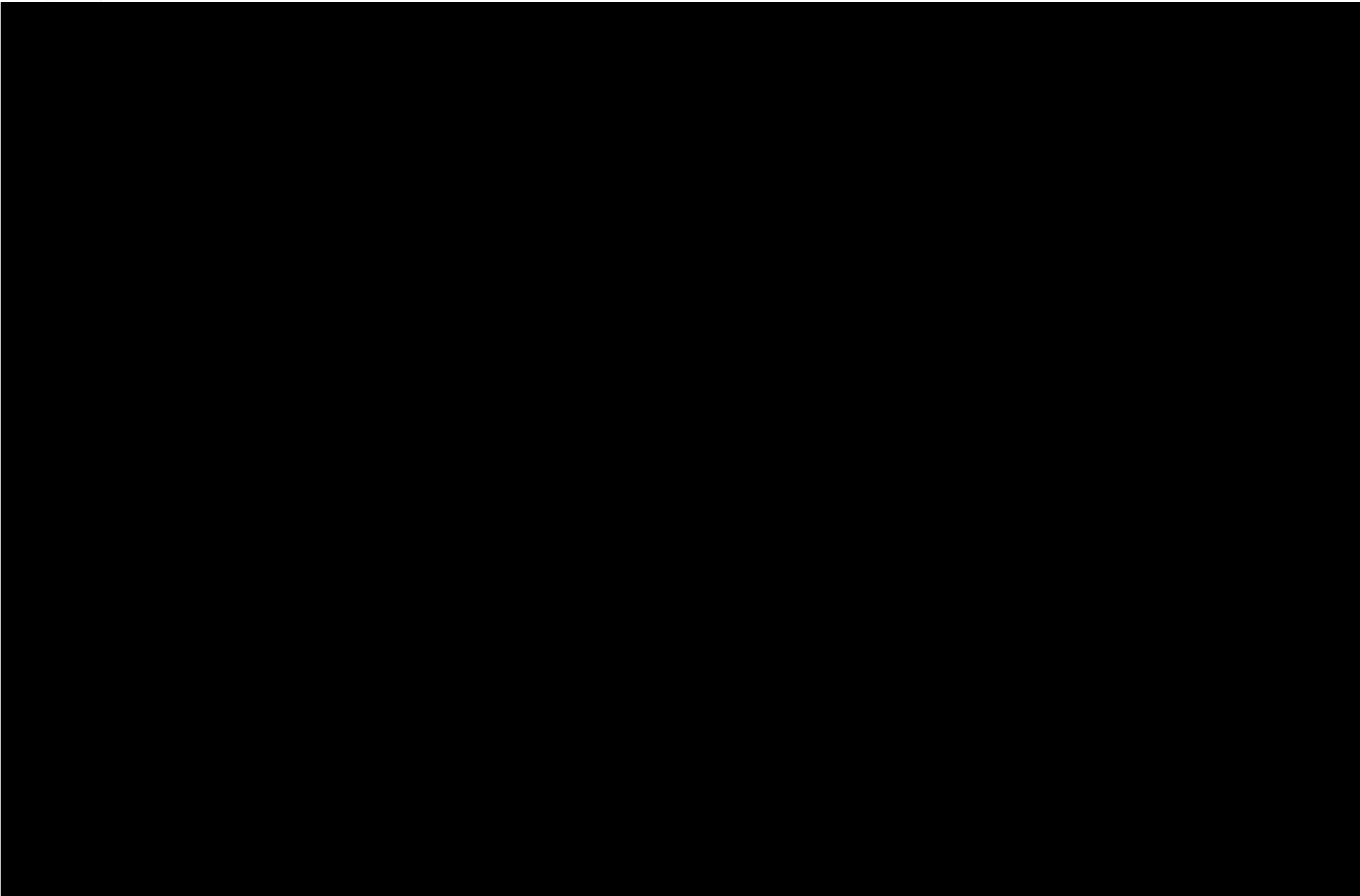


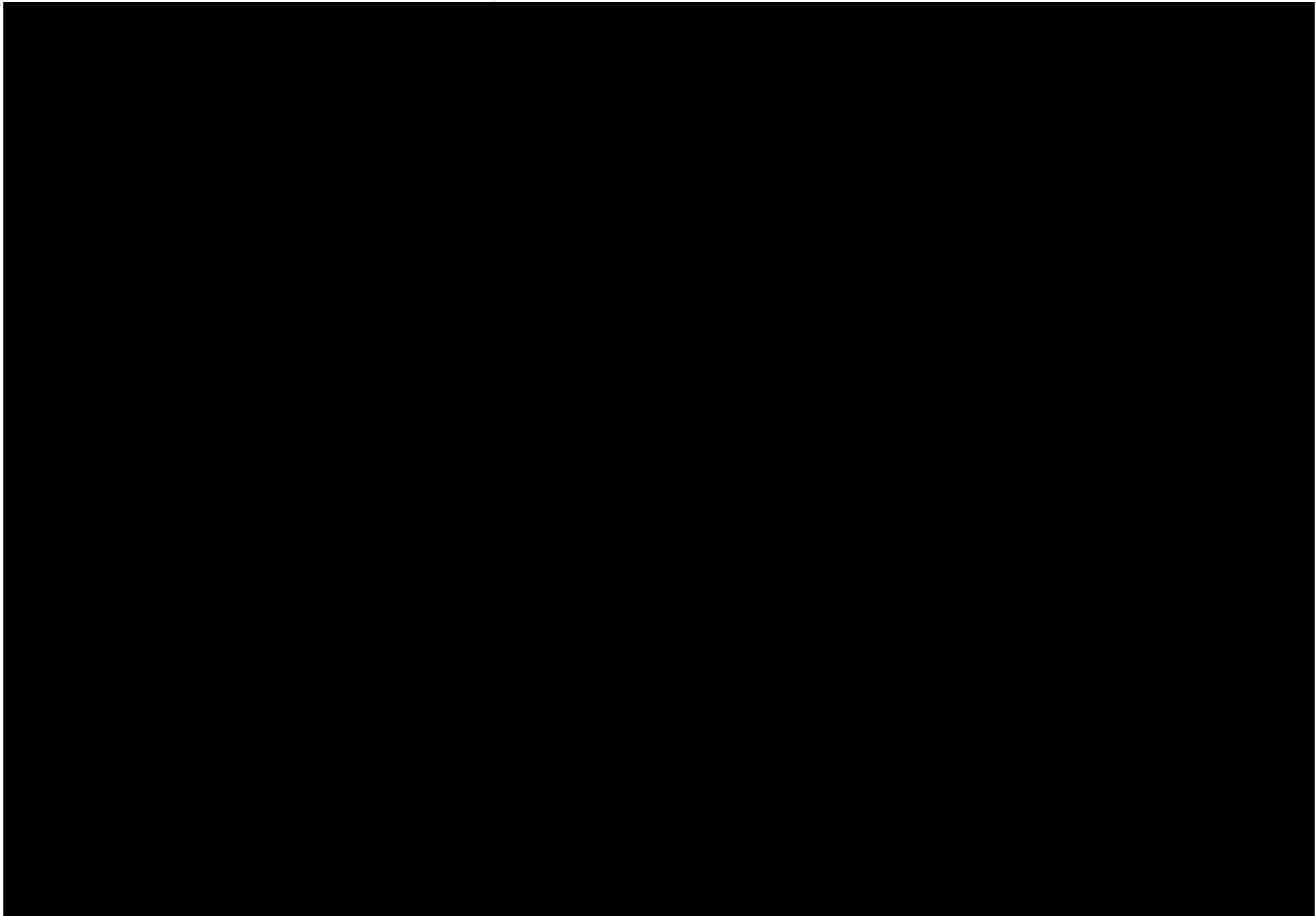


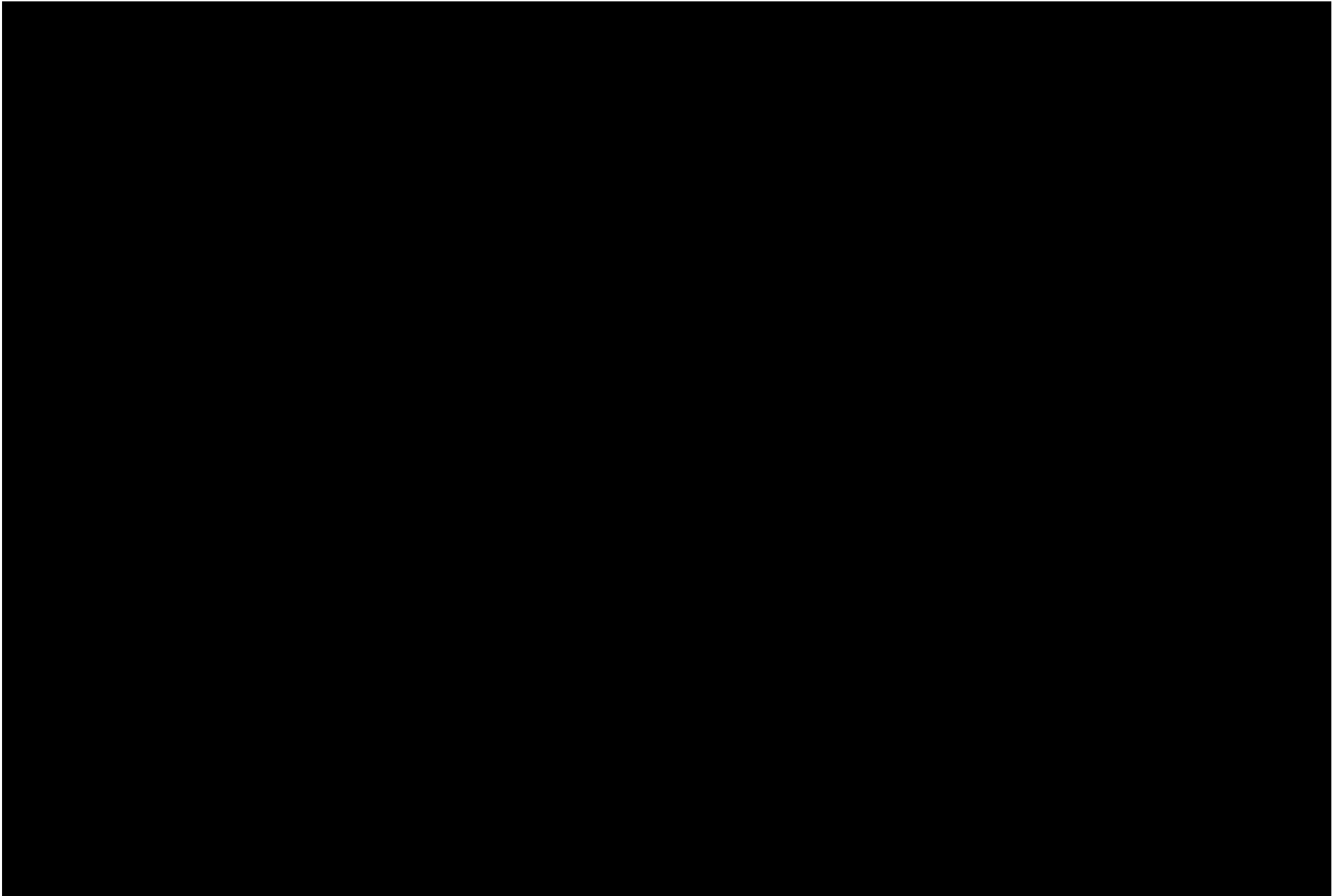


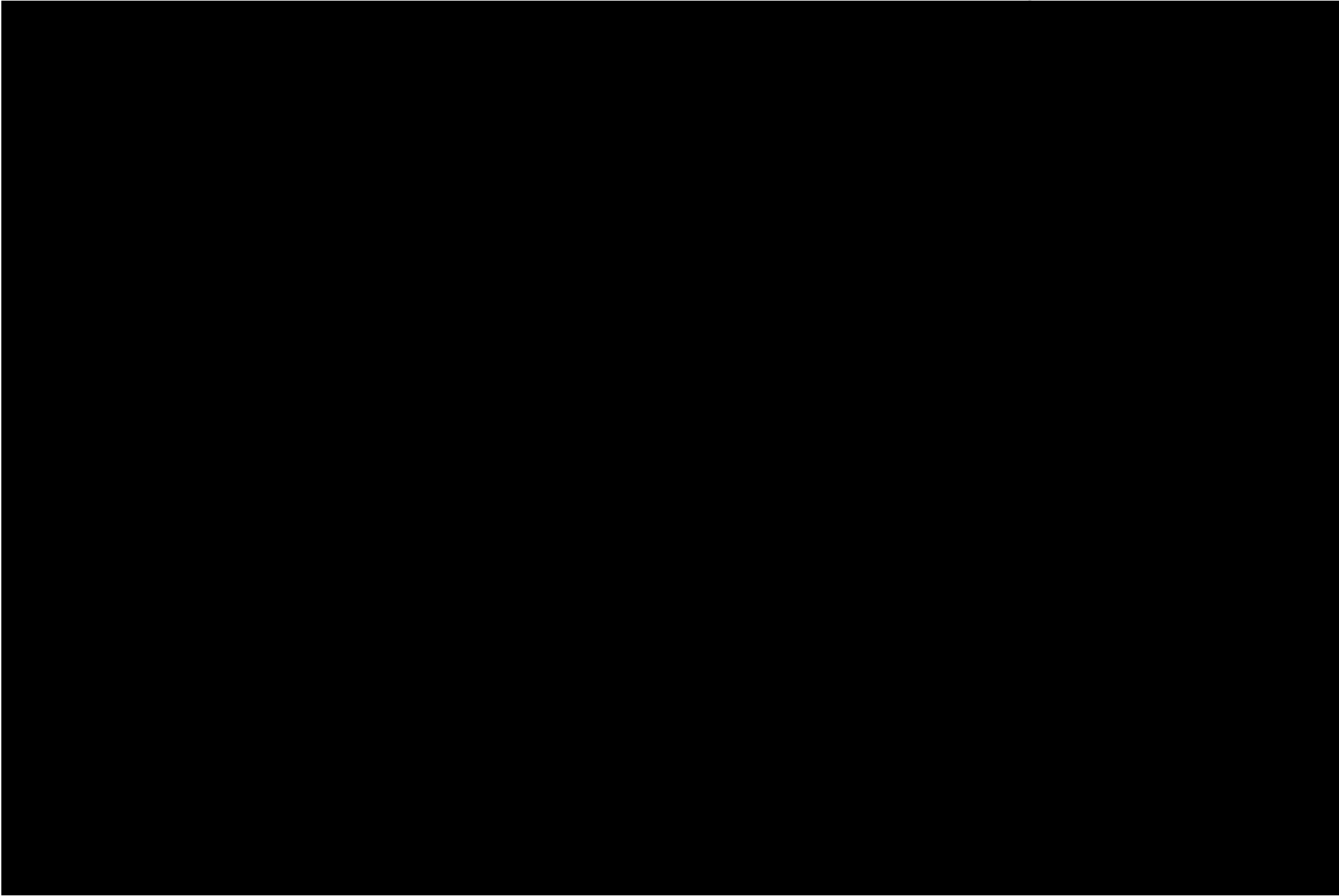




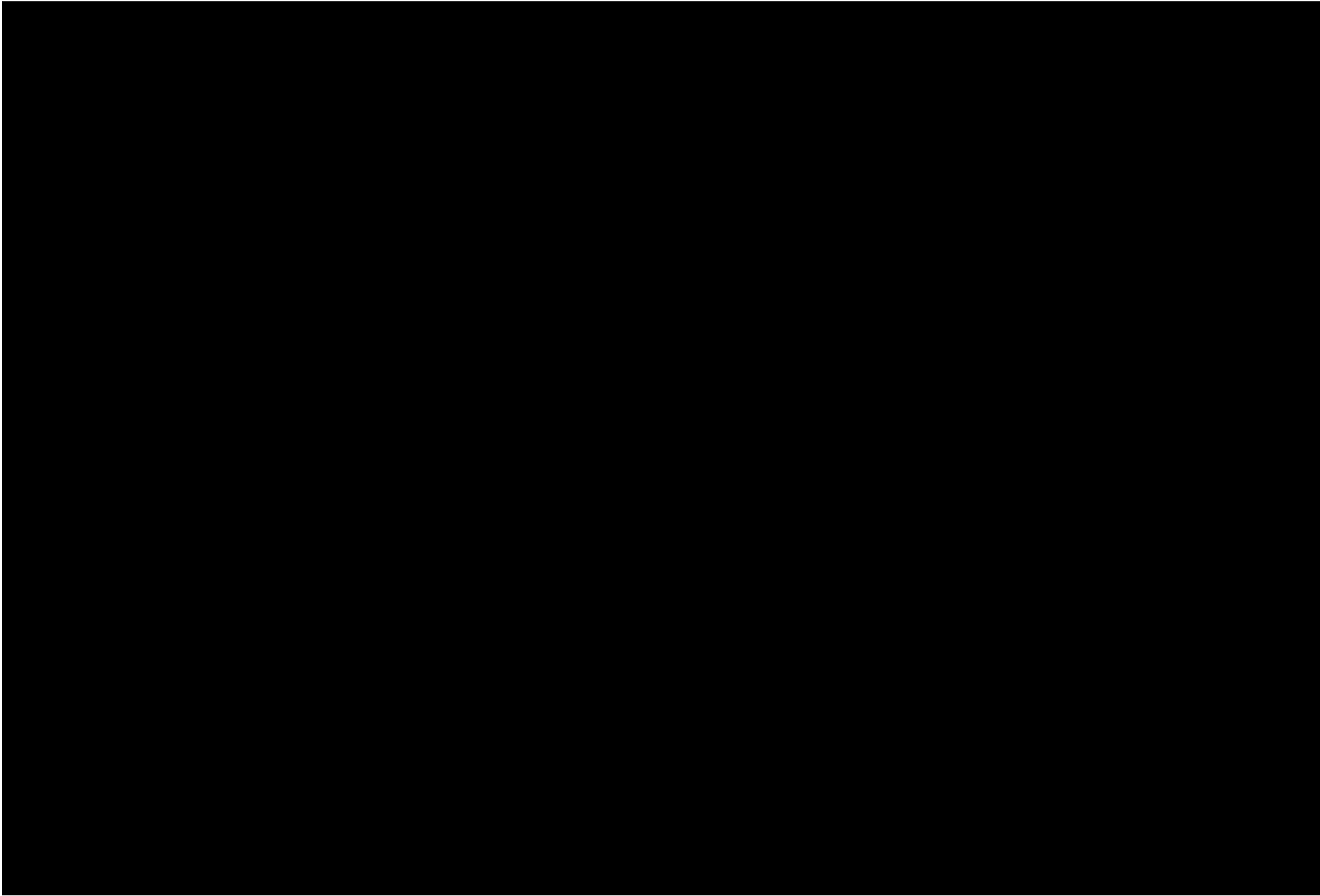




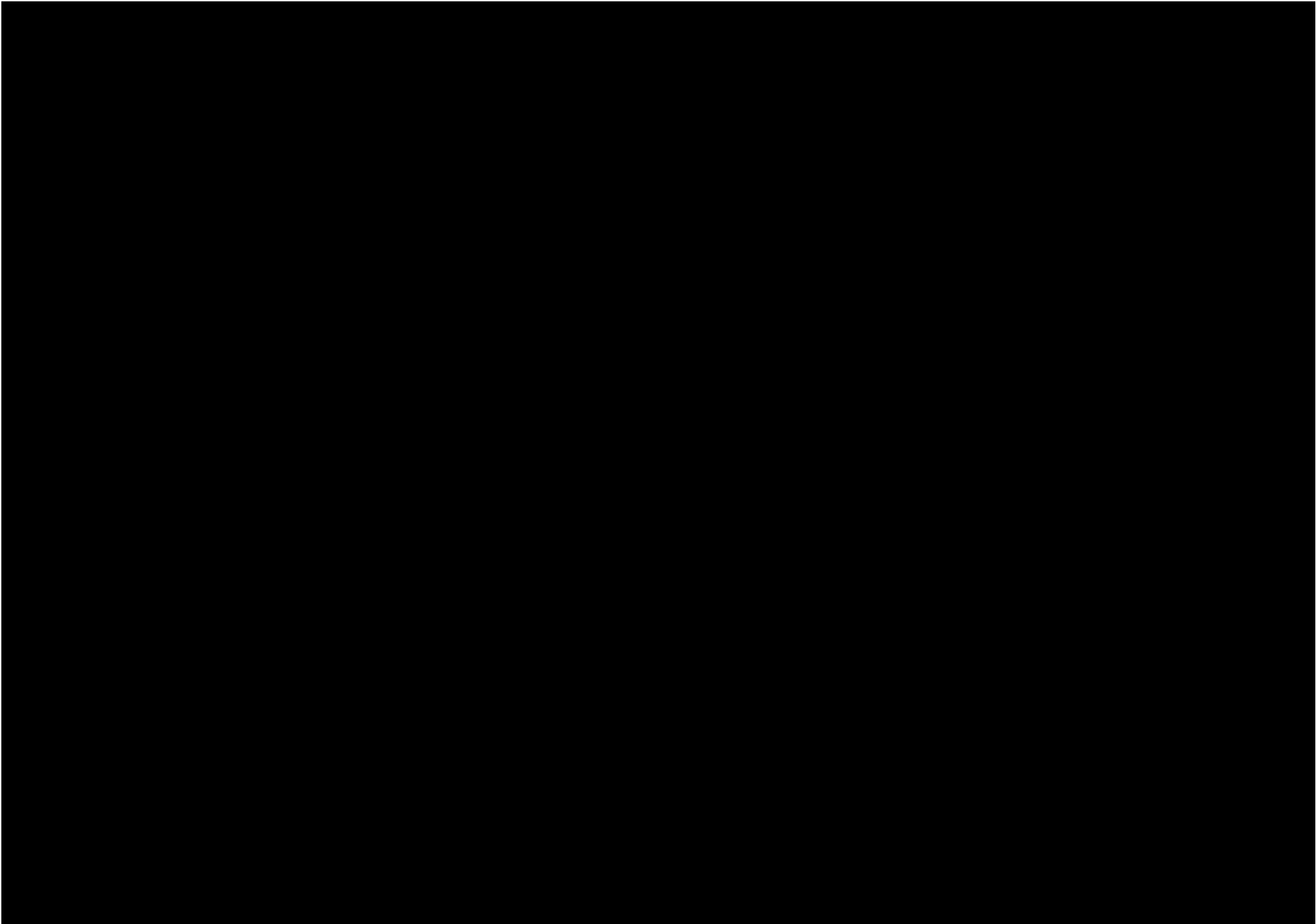






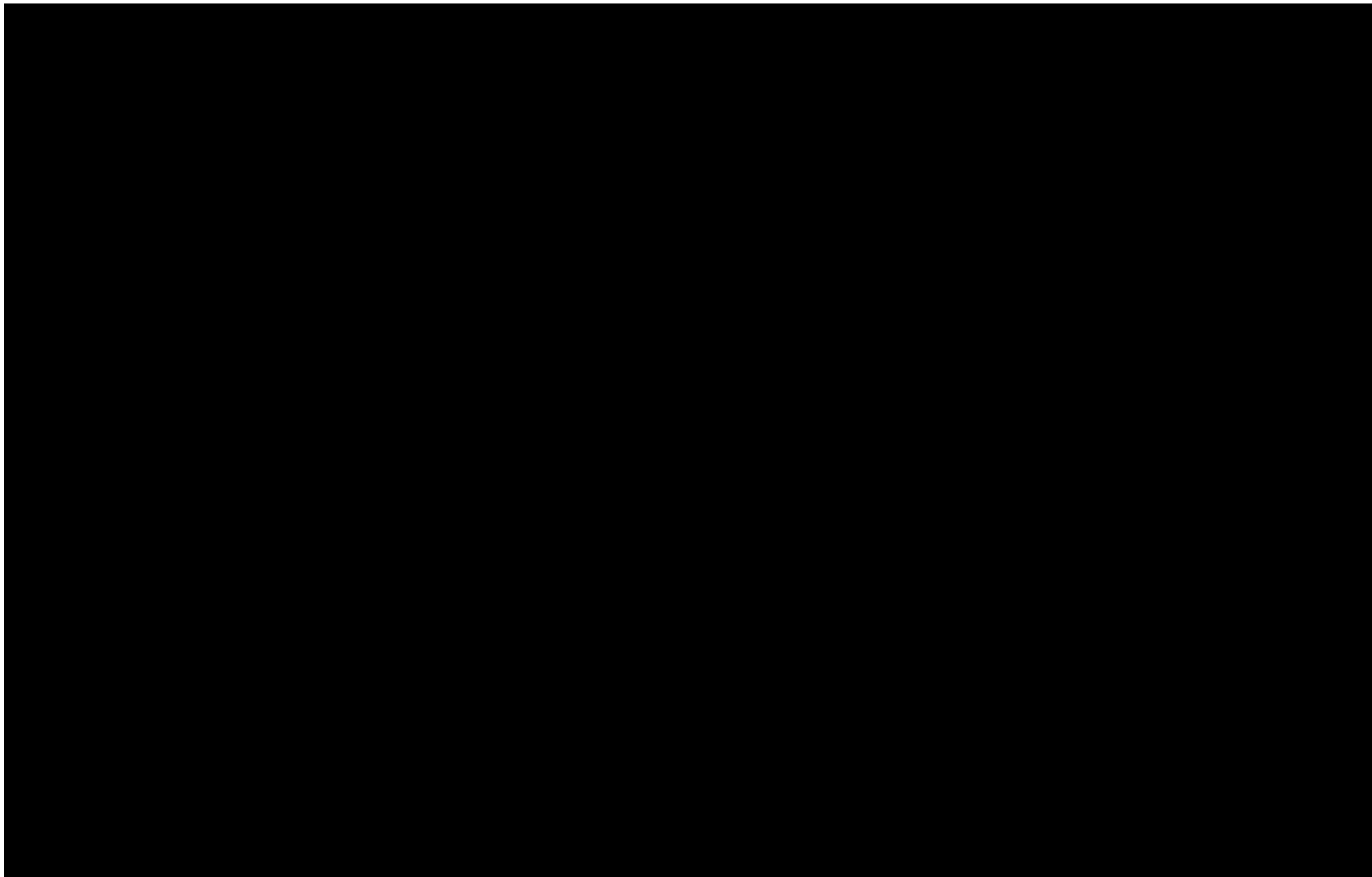




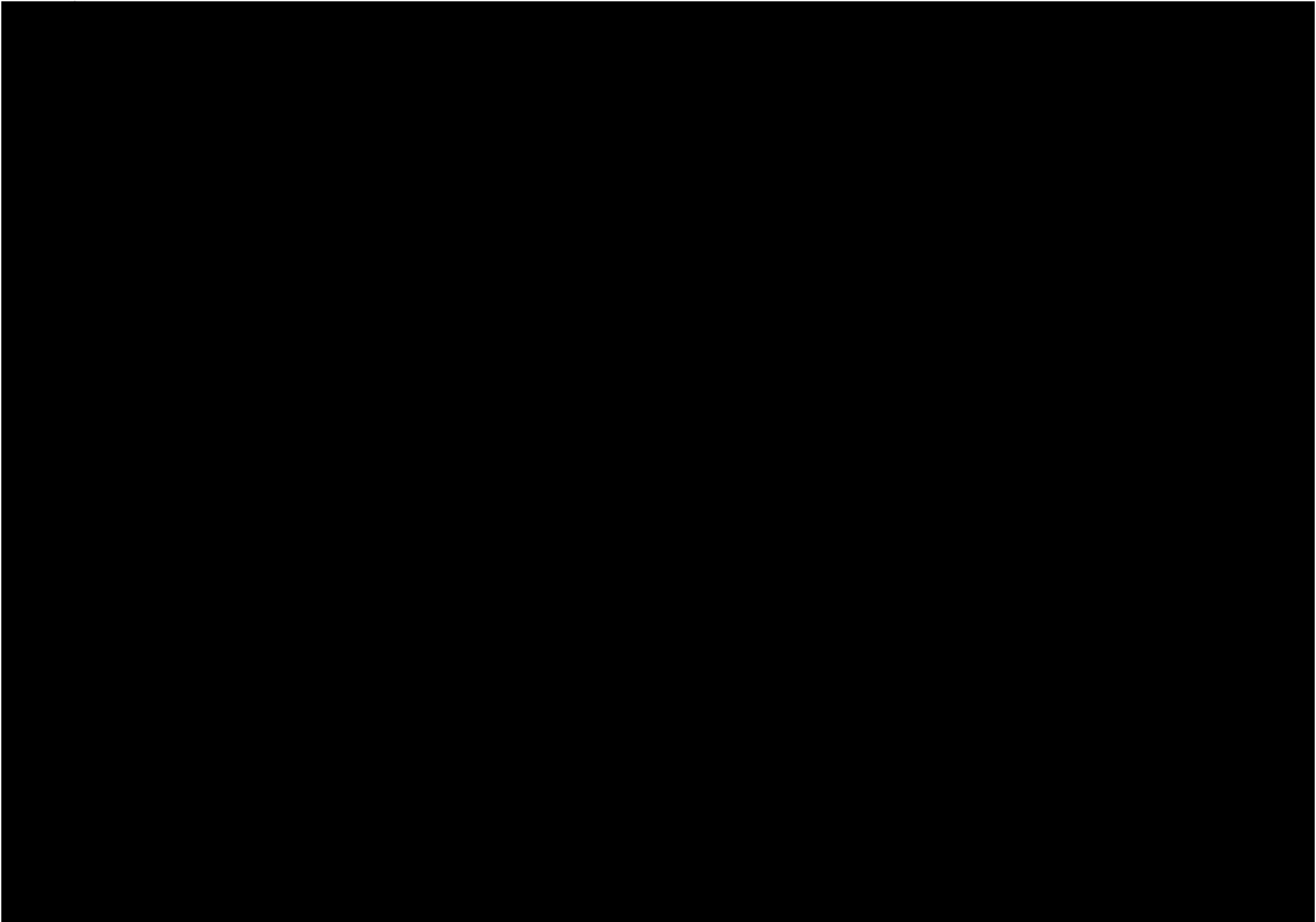


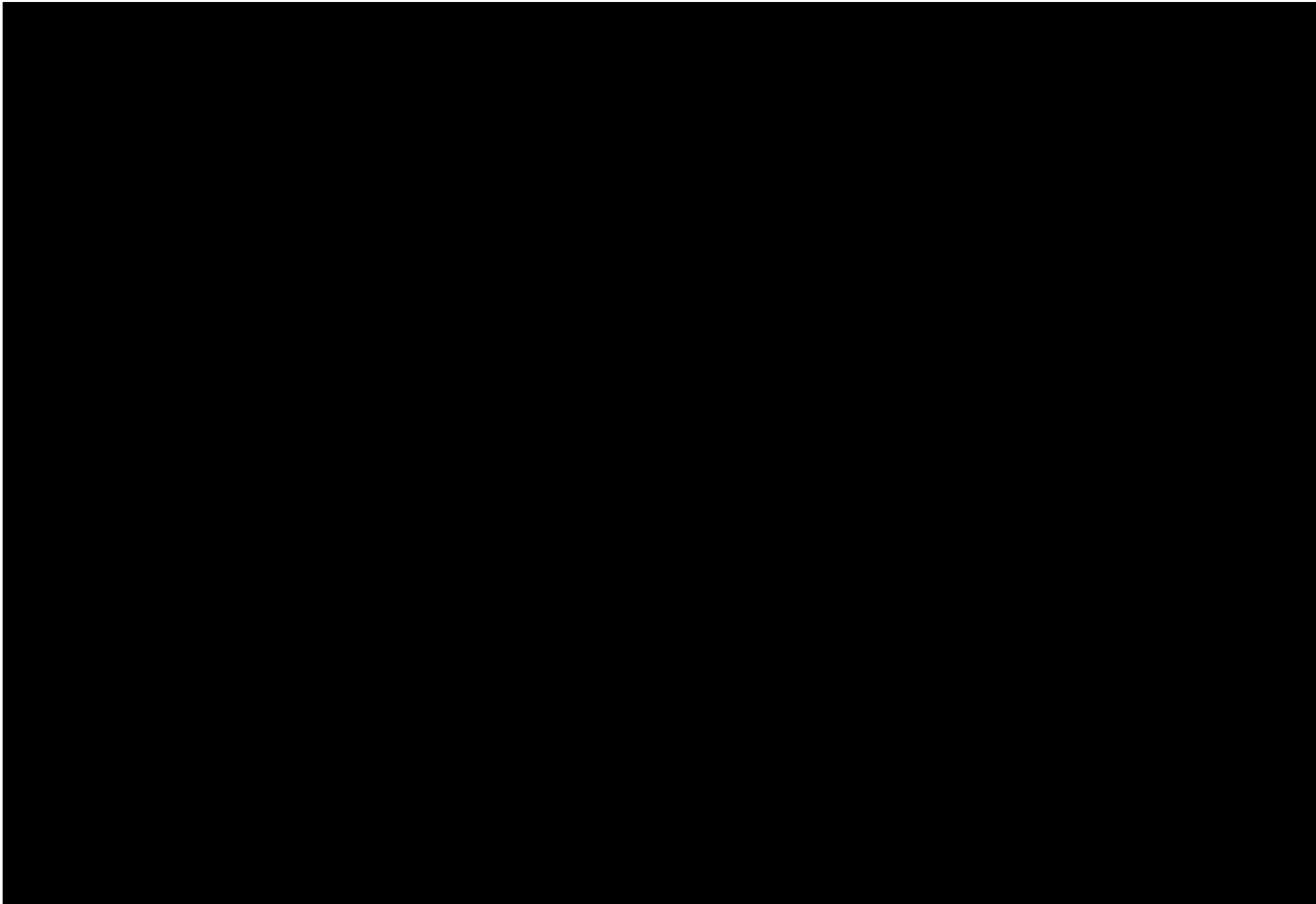


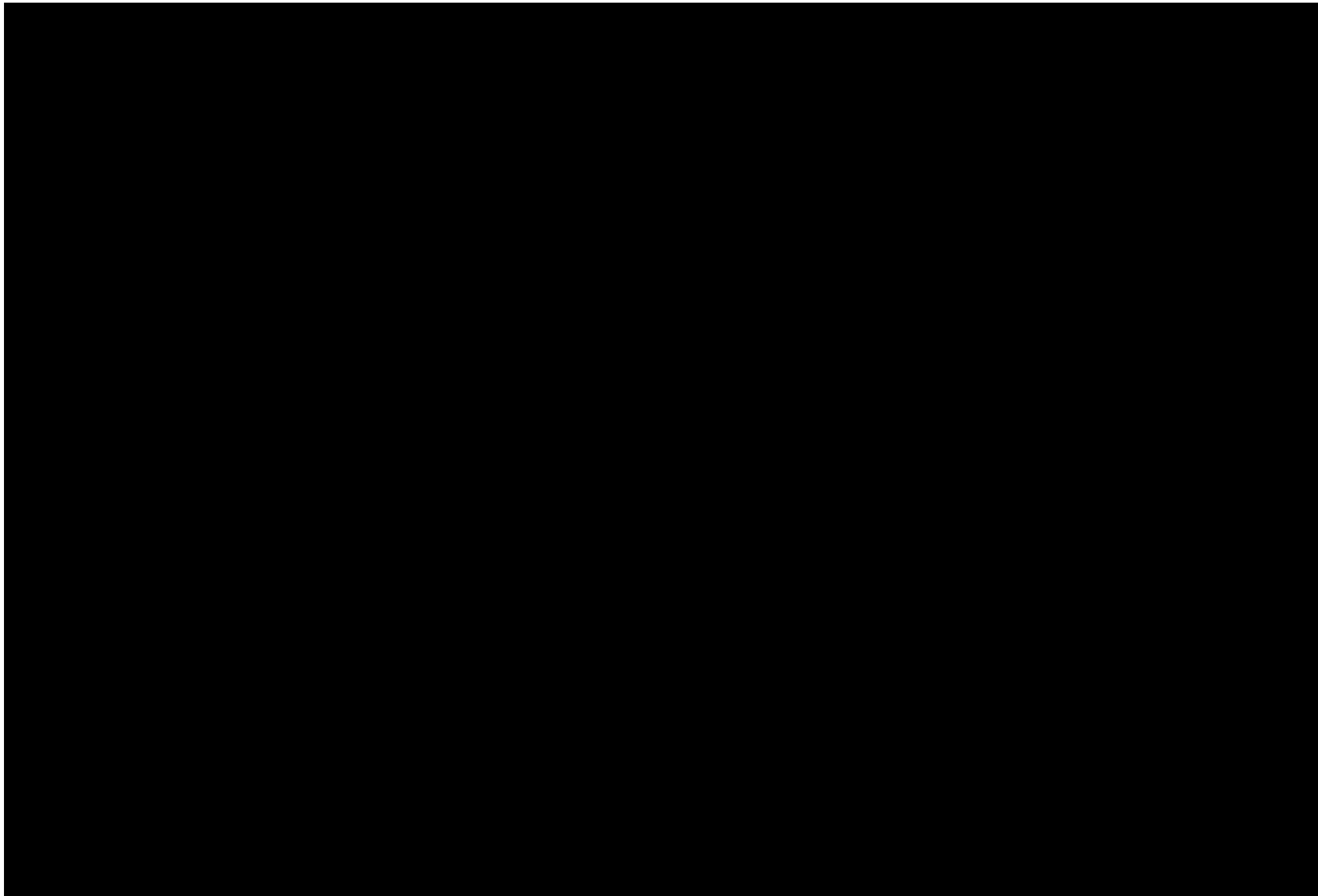
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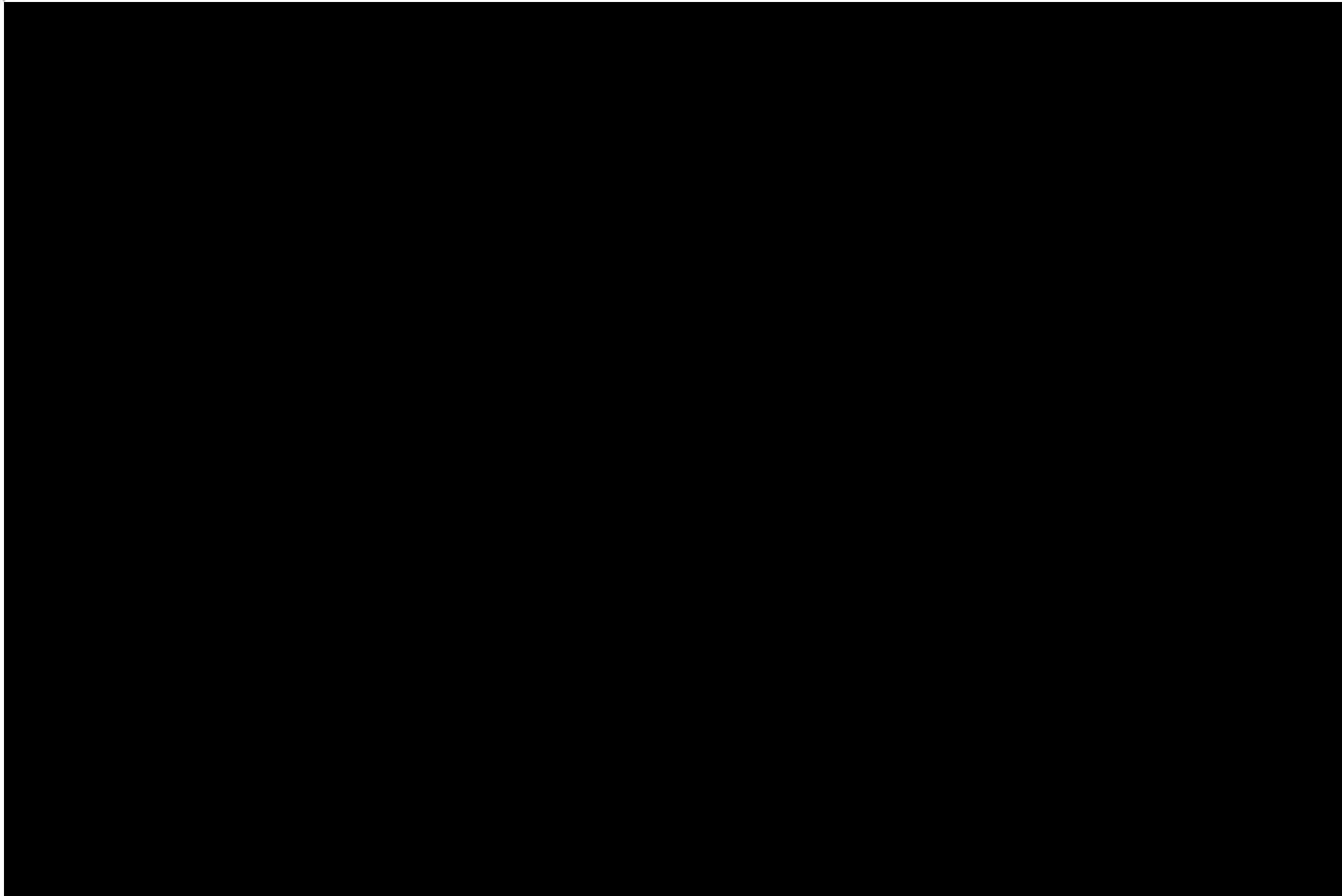




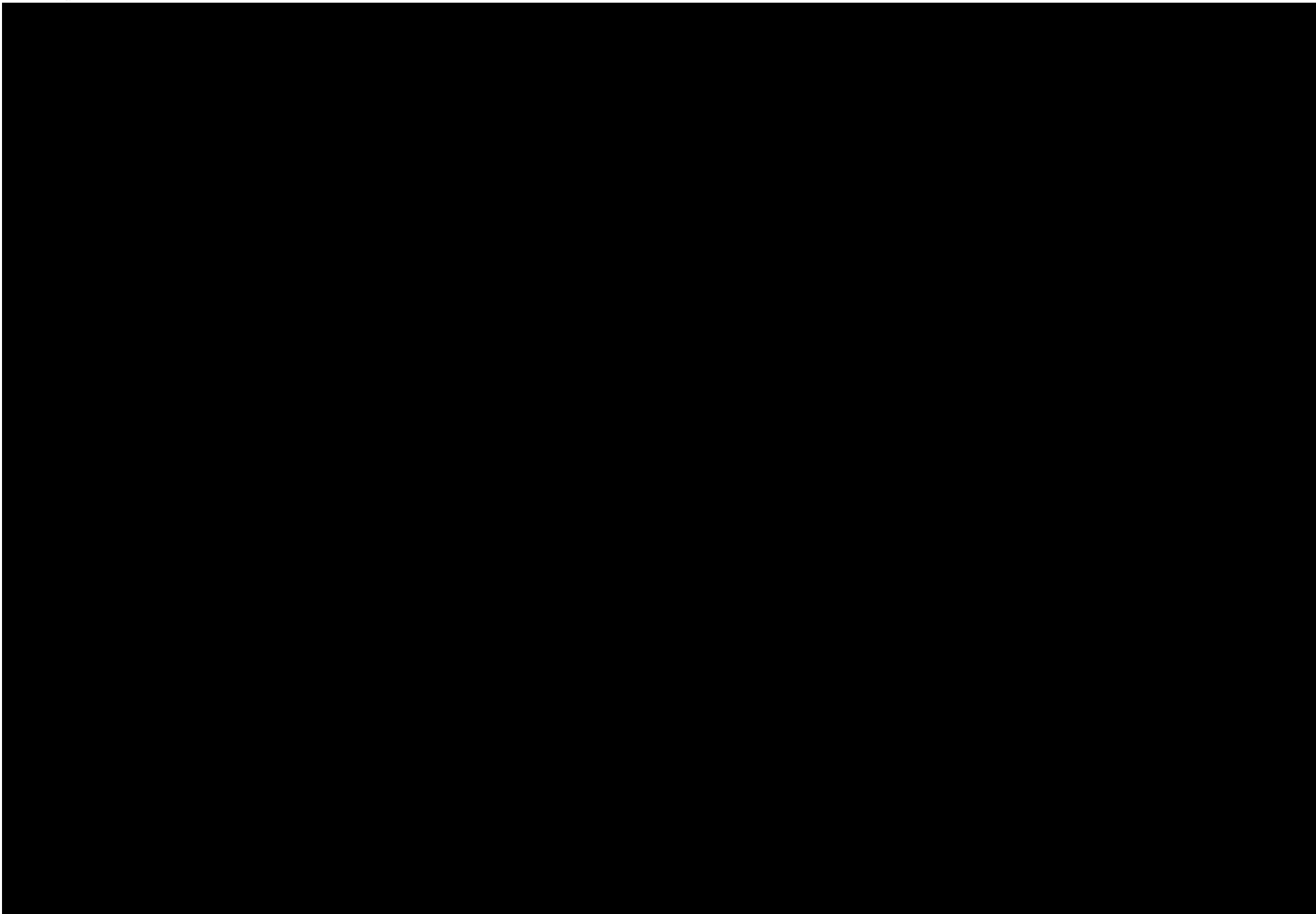


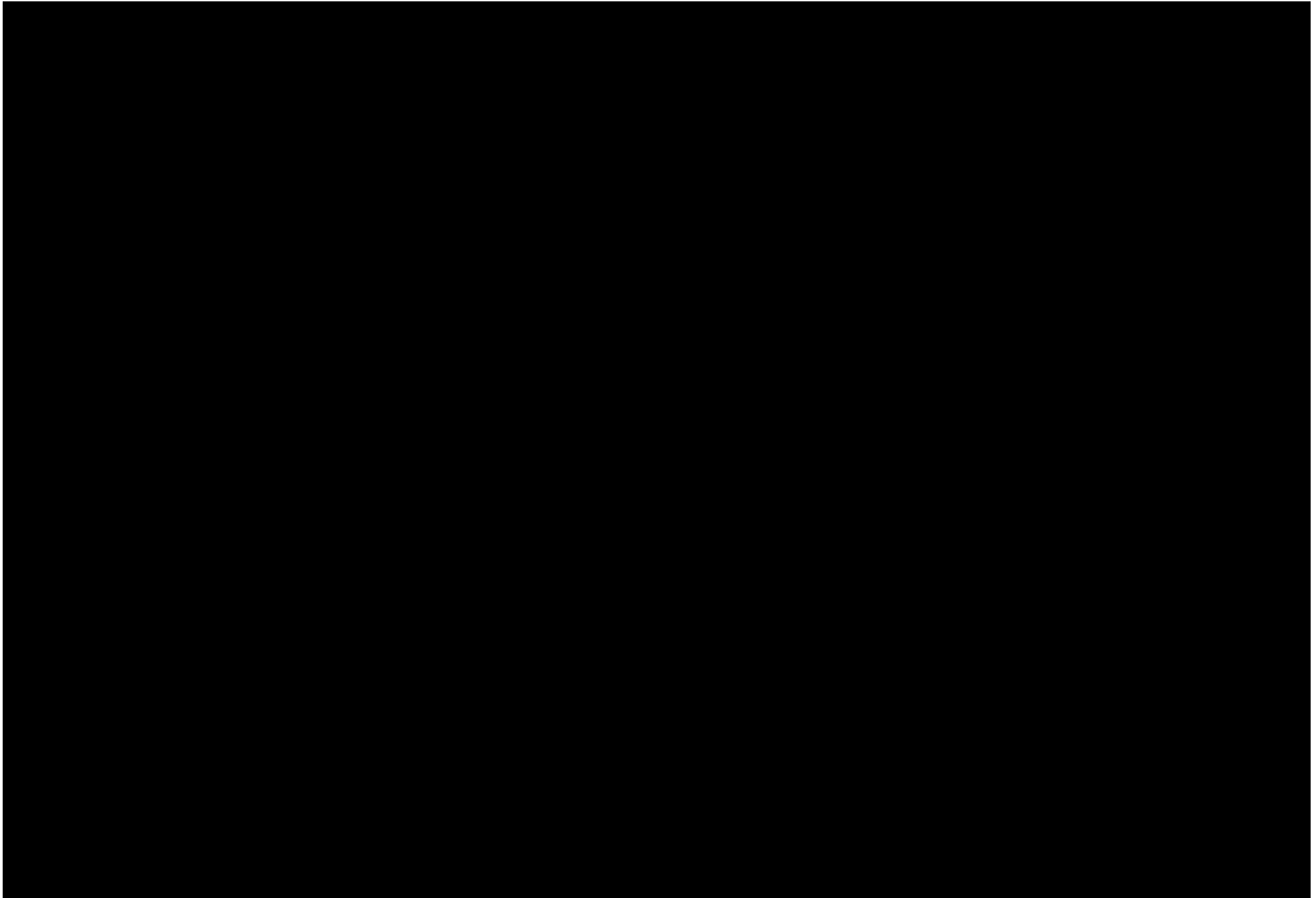


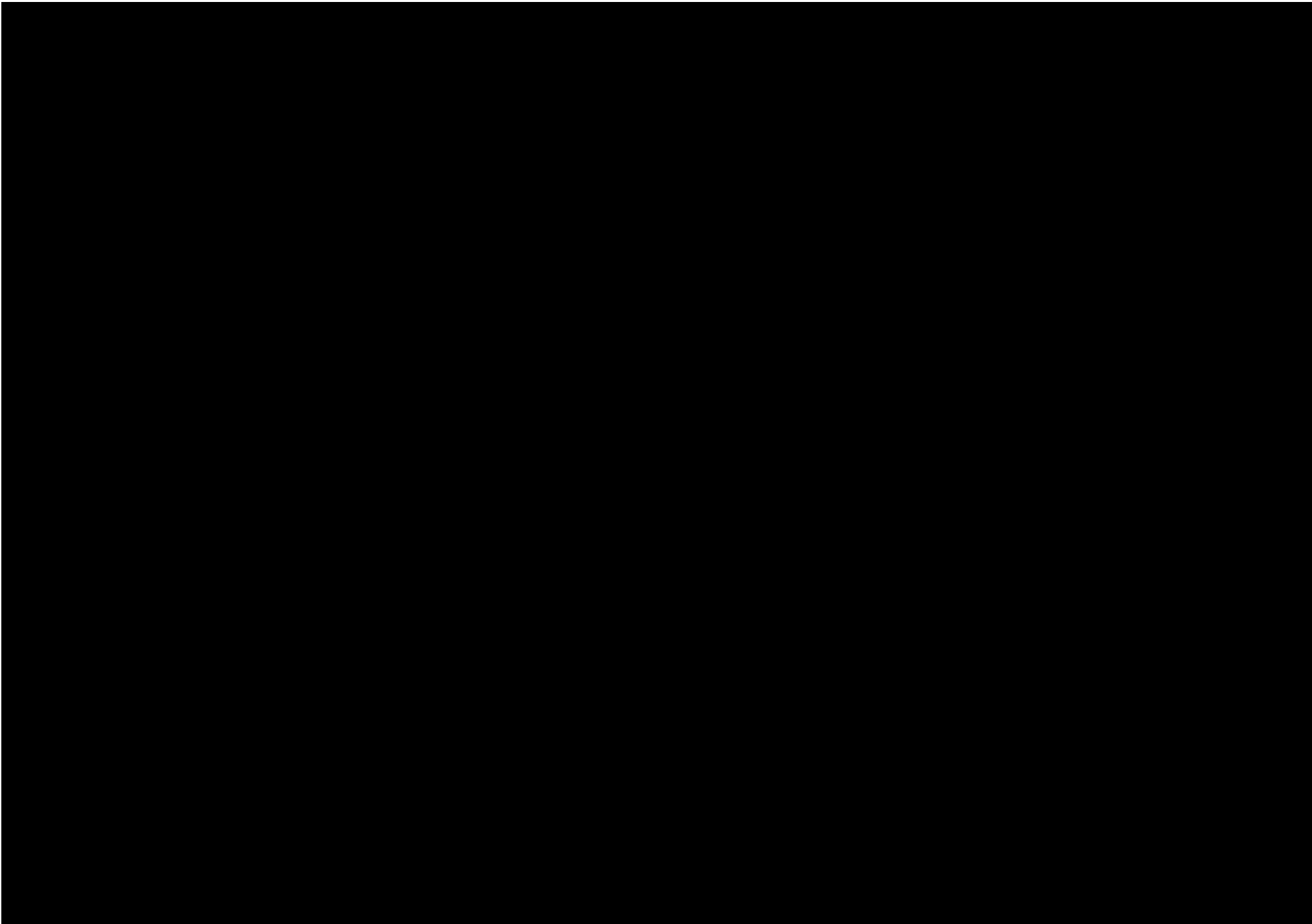


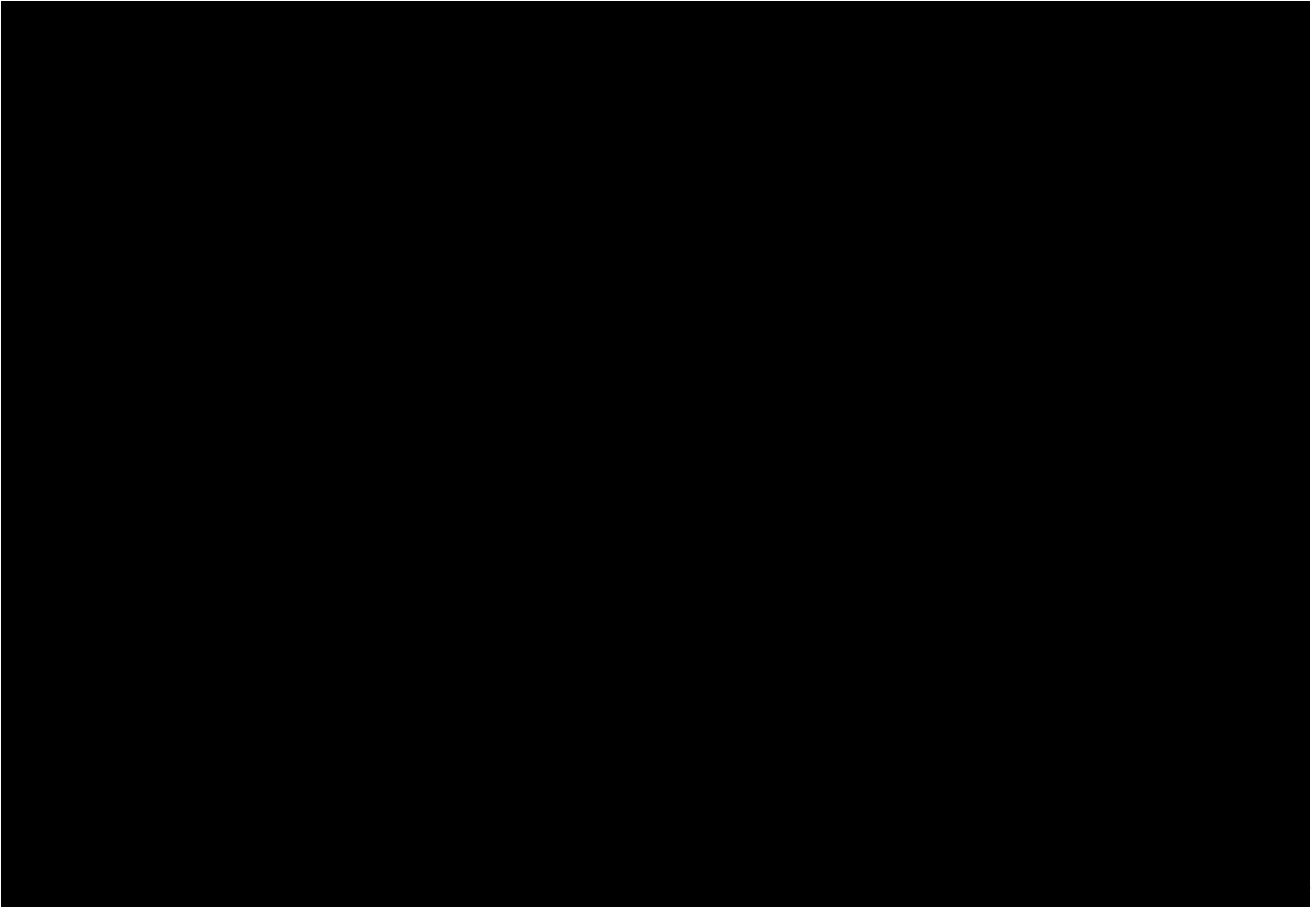


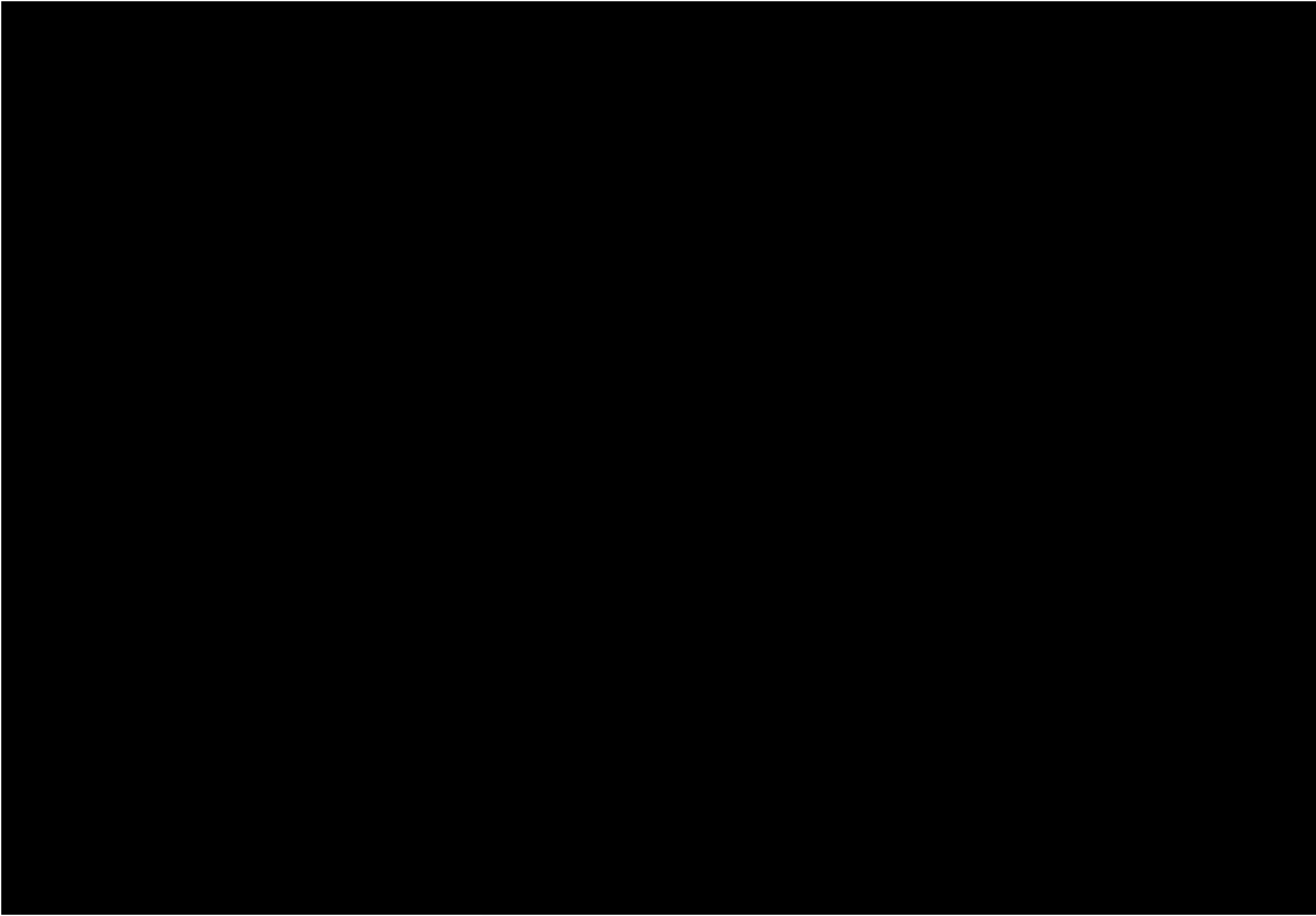














**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

Date registered: June 6, 1995

-----	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----	X	

PARTY OFFERING: PETITIONER

**Exhibit 9 to the TTAB Discovery Deposition Transcript of  
Eugene Paul Richter, III, dated November 2, 2017**

**From:** Gene Richter <gene.richter@st-group.com>  
**Sent:** Friday, November 6, 2015 1:07 AM  
**To:** Steve Abbott <Steve.Abbott@st-group.com>  
**Subject:** Cool Cohiba Humidor (Cuban??)  
**Attach:** IMG\_2141.PNG; ATT00001.txt

---

FYI







## EXPLORE



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kaliteli#puro#cigars#humidor#purokutusu#purosever  
#aksesuar#ankara#antalya#hatay#hediye#bayan#erk  
ek#ozel#limited#partagas#cohiba#romeoyjuljeta#tak  
i#ssglik#set#kombin#gurkha#nub#gece#deniz

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Gene Richter's iPhone

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

Date registered: June 6, 1995

-----	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----	X	

PARTY OFFERING: PETITIONER

**Exhibit 10 to the TTAB Discovery Deposition Transcript of  
Eugene Paul Richter, III, dated November 2, 2017**

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### BUSINESS INFO

Founded in 1496

### CONTACT DETAILS

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http://www.cohiba.com

### STORY

#### HOUSE RULES

This page provides a place to discuss the Cohiba brand, our family of products and news. The following guidelines are designed to help provide a quality environment for our fans. Please take a minute to read them and keep them in mind whenever you participate.

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## MORE INFO

- About**  
The most iconic name in luxury cigars. Cohiba exemplifies style and sophistication. Cohiba is the must-have for any dedicated cigar connoisseur.
- Company Overview**  
One of the world's most recognizable luxury names. Cohiba remains a must-have for any dedicated cigar connoisseur. Developed in the Dominican Republic by Diaz y... See more
- Products**  
The most iconic name in luxury cigars. Cohiba exemplifies style and sophistication. Cohiba is the must-have for any dedicated cigar connoisseur. This collectio... See more
- Company**

## STORY

### HOUSE RULES

This page provides a place to discuss the Cohiba brand, our family of products and news. The following guidelines are designed to help provide a quality environment for our fans. Please take a minute to read them and keep them in mind whenever you participate.

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### Milestones

2008	Cohiba Puro Dominicana is introduced
2006	Cohiba Black arrives
1991	The debut of Cohiba XV
1982	Cohiba goes worldwide
1978	General Cigar crafts the Dominican Cohiba cigar
1496	Founded in 1496

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cigar connoisseur.

Company Overview

One of the world's most recognizable li  
remains a must-have for any dedicater  
Developed in the Dominican Republic

Products

The most iconic name in luxury cigars,  
and sophistication. Cohiba is the must  
cigar connoisseur. This collectio... See

Company

Cohiba

2008

2008


Cohiba Puro Dominicana is introduced

Like Page

2008

Cohiba Puro Dominicana is introduced

As a tribute to the discovery of Cohiba in Santa Domingo, General Cigar introduces Cohiba Puro Dominicana, a Cohiba made solely with Dominican tobaccos blended to create the perfect smoking experience.



50

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As a tribute to the discovery of Cohiba in Santa Domingo, General Cigar introduces Cohiba Puro Dominicana, a Cohiba made solely with Dominican tobaccos blended to create the perfect smoking experience.



50

[3 Comments](#)[View 1 more comment](#)**Robert Braxton** HIBS MY FAVORIT!!!!!!!25 July 2012 at 22:32 · [Like](#)**Raif Yazicigil** I do26 July 2012 at 05:45 · [Like](#)

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**Company Overview**  
One of the world's most recognizable luxury names, Cohiba remains a must-h Developed in the

**Products**  
The most iconic and sophisticated cigar connoisseur

**Company**

**Cohiba Black arrives**  
2006

The highly acclaimed Cohiba Black is introduced. This rich and complex cigar features a dark maduro wrapper and aged Dominican Piloto binder.



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and represents  
cigar connoisseur

Company



Cohiba Black arrives

2006

The highly acclaimed Cohiba Black is introduced. This rich and complex cigar features a dark maduro wrapper and aged Dominican Piloto binder.



28

1 Comment

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Dave Pipher have to sample those in cuba in the new year..

26 July 2012 at 00:14 · Like



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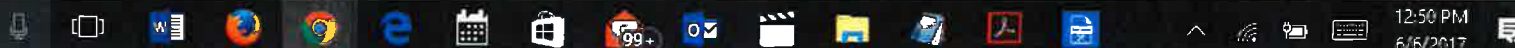
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1991

The debut of Cohiba XV

Products

The most iconic name and sophistication. Cigar connoisseur. Th

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1991

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The debut of Cohiba XV

1991

Cohiba XV is introduced. With the XV standing for "Extra Vigoroso," this full-bodied cigar is among the most sought after Cohibas available and is made only in limited quantities.



12

1 Comment

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## 1991

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25 July 2012 at 17:52 Like

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Products

The most iconic name and sophistication. Cohiba cigar connoisseur. The

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COHIBA

**Cohiba**

1982

Cohiba goes worldwide

1982

Cohiba cigars are introduced worldwide, with the exception of the United States. The introduction features three sizes: Panatela, Corona Especial and Lancero.



13

1 Comment

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**Cohiba goes worldwide**

1982

Cohiba cigars are introduced worldwide, with the exception of the United States. The introduction features three sizes: Panatela, Corona Especial and Lancero.



13

1 Comment



Like



Comment



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**Jamhal Mills** Tha year I was born...

Like Reply

14 August 2013 at 20:50

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cigar connoisseur. This collectio... See more

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1978

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General Cigar crafts the Dominican Cohiba cigar

1978

Five centuries after Christopher Columbus heard the word "Cohiba" for the first time in the Dominican Republic, General Cigar develops a Cohiba cigar in the same country.

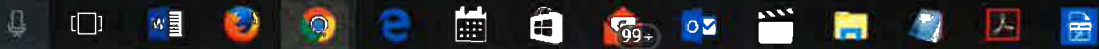


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and sophistication. Cohiba is the must-have for any dedicated cigar connoisseur. This collection... See more

1496

Founded in 1496

Company



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1496

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Founded in 1496

1496

Christopher Columbus makes his second voyage west. It's on this expedition that he and his crew hear the word "Cohiba" for the first time. The Taino Indians, the natives of Santa Domingo, use it to refer to the cured leaves of tobacco that they grow and smoke for pleasure.



5

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Founded in 1496

1496

Christopher Columbus makes his second voyage west. It's on this expedition that he and his crew hear the word "Cohiba" for the first time. The Taino Indians, the natives of Santa Domingo, use it to refer to the cured leaves of tobacco that they grow and smoke for pleasure.



5

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Christian Beck Marcel Rölke

Like Reply 1

24 January 2016 at 14:12

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The most iconic name in luxury cigars, Cohiba exemplifies style and sophistication. Cohiba is the must-have for any dedicated cigar connoisseur.

**Company Overview**

One of the world's most recognizable luxury names, Cohiba remains a must-have for any dedicated cigar connoisseur. Developed in the Dominican Republic by Diaz y Cia in 1978 (nearly five centuries after Columbus landed on the shores of the modern-day D.R. to find the natives smoking tobacco leaves they called "cohiba"), the brand was first made by General Cigar in the 1980s. The U.S. version of Cohiba is the only Cohiba brand that can be purchased legally in the United States; it remains peerless in defining luxury premium-cigar enjoyment.

**Products**

The most iconic name in luxury cigars, Cohiba exemplifies style and sophistication. Cohiba is the must-have for any dedicated cigar connoisseur. This collection... [See more](#)

[Company](#)

This page provides a place to discuss the Cohiba brand, our family of products and news. The following guidelines are designed to help provide a quality environment for our fans. Please take a minute to read them and keep them in mind whenever you participate.

Note: while we are glad to hear from everyone, it is important to note that postings by fans to the Cohiba Facebook page do... [See more](#)

**Milestones**

- 2008 Cohiba Puro Dominicana is introduced
- 2006 Cohiba Black arrives
- 1991 The debut of Cohiba XV
- 1982 Cohiba goes worldwide
- 1978 General Cigar crafts the Dominican Cohiba cigar
- 1496 Founded in 1496

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**Products**

The most iconic name in luxury cigars, Cohiba exemplifies style and sophistication. Cohiba is the must-have for any dedicated cigar connoisseur. This collection of medium- to full-bodied smokes, sculpted to the highest standards, symbolizes a life of attainable elegance. Handcrafted by General Cigar in the Dominican Republic, Cohiba is a brand that deserves a place in the most carefully-curated cigar collections.

Developed in the Dominican Republic by Diaz y Cia in 1978 (nearly five centuries after Columbus landed on the shores of the modern-day D.R. to find the natives smoking tobacco leaves they called "cohiba"), the brand was first made by General Cigar in the 1980s.

Note: while we are glad to hear from everyone, it is important to note that postings by fans to the Cohiba Facebook page do not necessarily reflect the opinions of Cohiba Red Dot and its affiliates. Further, Cohiba and its affiliates do not represent the accuracy of any User Content, and do not necessarily endorse the opinions expressed on this fan page.

By using or accessing this page, you acknowledge that you are 21 years of age and agree to comply with Facebook's Terms and Conditions.

We encourage you to leave comments, photos, videos and links here, as long as they are relevant to the intent of the page and provide value to fellow fans. Please be respectful of the community as a whole.

We will review all posts and we reserve the right to remove those that do not adhere to our guidelines. We will block anyone who violates our guidelines repeatedly. Further, we will not tolerate these kinds of posts and these will be removed immediately:

- Abusive, harassing, stalking, threatening or attacking others
- Defamatory, offensive, obscene, vulgar or depicting violence
- Hateful in language targeting race/ethnicity, religion, gender, nationality or political beliefs
- Fraudulent, deceptive, misleading or unlawful
- Trolling or deliberate disruption of discuss
- Violations of any intellectual property right

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... cigar connoisseur. This collection of medium- to full-bodied smokes, sculpted to the highest standards, symbolizes a life of attainable elegance. Handcrafted by General Cigar in the Dominican Republic, Cohiba is a brand that deserves a place in the most carefully-curated cigar collections.

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The U.S. version of Cohiba is the only Cohiba brand that can be purchased legally in the United States; it remains peerless in defining luxury premium-cigar enjoyment. In addition to the hallmark brand, Cohiba also features these fine, handcrafted expressions: Cohiba XV, Cohiba Black and Cohiba Puro Dominicana.

Note: Cohiba Cigars are made in the Dominican Republic. Never associated with the Cuban cigar sold under the same name outside the U.S. Cohiba Cigars are not made from Cuban-grown tobaccos.

Company

removed immediately:

- Abusive, harassing, stalking, threatening or attacking others
- Defamatory, offensive, obscene, vulgar or depicting violence
- Hateful in language targeting race/ethnicity, religion, gender, nationality or political beliefs
- Fraudulent, deceptive, misleading or unlawful
- Trolling or deliberate disruption of discussion
- Violations of any intellectual property rights
- Spamming in nature
- Uploading files that contain viruses or programs that could damage the operation of other people's computers
- Commercial solicitation or solicitation of donations
- Link baiting (embedding a link in your post to draw traffic to your own site)

## Milestones

- |      |   |
|------|---|
| 2008 | Cohiba Puro Dominicana is introduced            |
| 2006 | Cohiba Black arrives                            |
| 1991 | The debut of Cohiba XV                          |
| 1982 | Cohiba goes worldwide                           |
| 1978 | General Cigar crafts the Dominican Cohiba cigar |
| 1496 | Founded in 1496                                 |

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

Date registered: June 6, 1995

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EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
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PARTY DESIGNATIONS\*: Petitioner's Designations During Its Trial Period—Yellow or Pink  
Respondent's Designations During Its Trial Period—Green  
Petitioner's Designations During Its Rebuttal Period—Blue

**Designated TTAB Discovery Deposition Transcript of  
Michael Cullen, dated June 21, 2017**

\* Designations made pursuant to the marking and filing procedure the Board has previously approved, TTABVUE Nos. 165, 157, 138, 137, 135 and 132.



## UNITED STATES DISTRICT COURT

## DISTRICT OF NEW HAMPSHIRE

\* \* \* \* \*

Empresa Cubana del Tabaco,  
d.b.a. Cubatabaco

vs.

General Cigar Co., Inc. and  
Culbro Corp.

\* Pending in the US  
\* Patent and Trademark  
\* Office Before the  
\* Trademark Trial and  
\* Appeal Board in the  
\* Matter of Trademark  
\* Registration No.  
\* 1147309 for the mark  
\* COHIBA -- Date  
\* Registered 2/17/1981  
\* In the Matter of  
\* Trademark Registration  
\* No. 1898273 for the  
\* mark COHIBA -- Date  
\* Registered 6/6/1995

\* \* \* \* \*

DEPOSITION OF MICHAEL CULLEN,

Deposition taken at Nixon, Vogelmann, Barry, Slawsky &  
Simoneau, 77 Central Street, Manchester, New  
Hampshire, on Wednesday, June 21, 2017, commencing at  
9:04 a.m.

Court Reporter:

Pamela J. Carle, LCR, RPR, CRR

New Hampshire LCR No. 98

1

## APPEARANCES

2

For the Plaintiff:

3

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LIEBERMAN

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By: Lindsey Frank, Esq.

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lfrank@rbski.com

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By: Airina Lynn Rodrigues, Esq.

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airina.rodrigues@dlapiper.com

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## I N D E X

WITNESS:

MICHAEL CULLEN

2

EXAMINATION:

PAGE

3

By Mr. Frank

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By Ms. Rodrigues

110/122

4

5

EXHIBITS FOR IDENTIFICATION:

6

CULLEN

DESCRIPTION

PAGE

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Deposition Subpoena

5

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2

KMB 000020 to KMB 000025

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3

Document subpoena

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4

List of files on CD

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FR 0000100 and FR 0000231 to 234

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FR 0000168

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FR 0000148

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FR 0000211

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23

(Exhibits scanned and returned to Attorney Frank.)

24

25



1                   MICHAEL CULLEN,  
2                   having been duly sworn,  
3                   was deposed and testified  
4                   as follows:

5                   EXAMINATION

6           BY MR. FRANK:

7           Q.       Good morning.   My name is Lindsey  
8           Frank, I'm the attorney from Rabinowitz, Boudin,  
9           Standard, Krinsky & Lieberman, PC; we represent  
10          petitioner in this case.   Airinia Rodrigues is  
11          here, she's an attorney from DLA Piper  
12          representing the respondent, General Cigar Company  
13          in this case.

14                   Are you -- Mr. Cullen, are you being  
15          represented at this deposition by an attorney?

16          A.       No.

17          Q.       I'll be asking you a series of  
18          questions.   The reporter will take down my  
19          questions and your responses.   If any of my  
20          questions aren't clear let me know, and I'll  
21          clarify them.   Please note that the answers must  
22          be stated out loud, so uh-hum, um-um and hand  
23          gestures need to be verbalized.

24                   Okay, so let's mark this as Cullen  
25          Exhibit 1.

1 (Cullen Exhibit 1 was marked for identification.)

2 BY MR. FRANK:

3 Q. This is a deposition subpoena and the  
4 notice of deposition. Can you review the  
5 document, please. Are you appearing here today  
6 pursuant to this subpoena?

7 A. Yes.

8 Q. And can you please just provide a brief  
9 background of your educational --

10 A. Education. I have a bachelor's degree  
11 in marketing from Babson College, and an MBA from  
12 Fairleigh Dickinson University.

13 Q. And what college did you graduate from?

14 A. Babson.

15 Q. Babson?

16 A. And Fairleigh Dickinson.

17 Q. And what year did you graduate from  
18 Babson?

19 A. 1967.

20 Q. And what year did you graduate with an  
21 MBA?

22 A. I'll have to -- I'm not sure.

23 Q. And was there any -- do you know --  
24 about what year?

25 A. Let's see. '85.

1 Q. And in your MBA was there a particular  
2 focus or concentration?

3 A. Marketing.

4 Q. Other than your bachelor's in marketing  
5 and your MBA from Fairleigh Dickinson, are there  
6 any other graduate degrees you have?

7 A. Degrees? No.

8 Q. And any other education?

9 A. Yeah, I was an associate professor of  
10 marketing at -- it's now called Southern  
11 New Hampshire University.

12 Q. And for how long were you a --

13 A. One semester.

14 Q. One semester? And when was that?

15 A. 2000.

16 Q. And have you been employed as an  
17 educator in any other context?

18 A. No.

19 Q. Are you currently employed?

20 A. No, retired.

21 Q. Retired. Since when?

22 A. I think about four years ago.

23 Q. And do you do any work in your  
24 retirement?

25 A. No.

1 Q. Prior to retiring what did you do?

2 A. My last position was president of  
3 Michael Cullen -- Michael Cullen Marketing -- oh,  
4 gee, I've lost the name of it -- Marketing  
5 Consultant, Incorporated. It does -- it was doing  
6 business as Fathom Research.

7 Q. And for how long were you president  
8 of -- we'll call it Fathom Research -- how long  
9 were you president of Fathom Research?

10 A. Okay, ten years.

11 Q. And how many employees did Fathom  
12 Research have?

13 A. Three.

14 Q. And what were their positions?

15 A. I'm sorry, four. We had four.

16 Q. And what were their positions?

17 A. Two researchers and one administrative  
18 person.

19 Q. And the fourth?

20 A. Oh, I'm the fourth.

21 Q. You're the fourth, okay. And what kind  
22 of work did Fathom Research do?

23 A. Market research.

24 Q. And where was Fathom Research located?

25 A. Nashua, New Hampshire.

1 Q. Did it have any other offices?

2 A. For a while we were in Amherst,  
3 New Hampshire.

4 Q. In addition to Nashua or prior to?

5 A. Yeah, in addition.

6 Q. And when did the Amherst office -- when  
7 did it open and when did it close?

8 A. I had the -- the Amherst office was  
9 really associated with Michael Cullen Marketing  
10 Consultant more than Fathom Research, and it closed  
11 15 years ago.

12 Q. You said you were president of Fathom  
13 Research for ten years. What did you do prior to  
14 that?

15 A. I was the -- I worked for -- I was the  
16 managing director of Censydiam, USA.

17 Q. Managing director of -- I'm sorry,  
18 what?

19 A. Censydiam, USA, C-E-N-S-Y-D-I-A-M, USA.

20 Q. And what did Censydiam do?

21 A. Marketing research.

22 Q. And for how long were you managing  
23 director?

24 A. Five years.

25 Q. And how many employees does that

1 company have -- did it have at the time?

2 A. In the U.S.?

3 Q. Yeah.

4 A. Four.

5 Q. Four?

6 A. Yeah, same number.

7 Q. And outside the U.S.?

8 A. Hum?

9 Q. Outside the U.S.?

10 A. I have to guess. Hundred.

11 Q. And where was its headquarters?

12 A. Antwerp, Belgium.

13 Q. Returning back to Fathom Research, can

14 you give me some sample clients of Fathom

15 Research?

16 A. Yeah, Fathom Research did a lot of work

17 for Swedish Match, and, let's see. They were our

18 primary client. We also did work for Dean Foods.

19 That was probably about it.

20 Q. And for how long did Fathom Research

21 work for Swedish Match?

22 A. The full time. The whole ten years.

23 Q. And on what topics did Fathom

24 Research -- what kind of work did Fathom Research

25 do for Swedish Match?

1 A. Research.

2 Q. Market research?

3 A. Market research.

4 Q. In market research, did it have a focus  
5 on a particular product or kind of product?

6 A. Tobacco products. Can I change that?  
7 Tobacco related products.

8 Q. Does that include tobacco products?

9 A. Yes.

10 Q. Does it include cigars?

11 A. Yes.

12 Q. Approximately how many projects did  
13 Fathom Research conduct for Swedish Match during  
14 the ten years?

15 A. Hold on just a second. More than 50.

16 Q. And of the more than 50 projects for  
17 Swedish Match, how many had cigars as a focus?

18 A. That question's a bit broad, but I'll  
19 answer it. Ten.

20 Q. Apart from the ten in which cigars were  
21 a focus, did the other approximately 40 concern  
22 cigars, or were any of them related to cigars?

23 A. Not related to cigars.

24 Q. Did the ten projects related to cigars  
25 occur -- during what period of time did the ten

1 projects related to cigars occur?

2 A. Throughout the time I worked with  
3 Swedish Match. You're not asking the right  
4 questions, do you want me to help you out?

5 MS. RODRIGUES: No.

6 A. She says no. Okay.

7 BY MR. FRANK:

8 Q. You can offer any answer.

9 A. No.

10 Q. So that would be from approximately  
11 2003 to 2013?

12 A. What's the question? I need to know  
13 the whole question.

14 Q. Would the work on -- Fathom Research  
15 work on cigar projects for Swedish Match cover the  
16 period from 2003 to 2013?

17 A. Yes.

18 Q. And can you describe those projects?

19 A. Yes.

20 Q. Can you give me a summary of each  
21 project?

22 A. No, I can't remember.

23 Q. Can you give me a summary of any  
24 project?

25 A. Projects -- I'm -- what do you mean by



1 summary?

2 Q. What did the projects concern? What  
3 did each of the projects concern?

4 A. Cigars.

5 Q. What particularly about cigars? Did  
6 any of the projects concern the Cohiba brand  
7 cigar?

8 A. Yes.

9 Q. How many of the ten projects?

10 A. It's hard to say, because Cohiba comes  
11 in incidentally in any research that's done. I can  
12 only think of one project where there was a  
13 specific Cohiba focus. Besides -- well, let me  
14 take that back. Yeah, in the qualitative side I  
15 can only think of one that had a specific Cohiba  
16 focus, maybe two.

17 Q. And what were those two projects?

18 A. Two qualitative research projects.

19

■

■

■

■

■

■





25                   A.       Yes, I did.

1

2

3

4

5

6

Q. And when did that happen?

7

A. Let's see. Just a year before Fathom

8

Research started.

9

Q. That would have been what year?

10

A. My years are getting all kind of mixed

11

up here. I can't remember exactly.

12

Q. Was Fathom Research established

13

approximately in 2003?

14

A. Yeah.

15

Q. So this would have been

16

approximately --

17

A. 2006. And we also did much work with

18

cigars commonly used by people who smoke marijuana.

19

Q. Wait, you said the study for General

20

Cigar, an add on quantitative study, occurred in

21

2006?

22

A. Yeah, that would be about right. I'd

23

have to check the date. It was -- it was while

24

General Cigar was still being run by the Coleman

25

family.

1 Q. And this was work done in your capacity  
2 as what?

3 A. Managing director of Censydiam USA.

4 Q. Okay.

5 A. And in that same study we did mass  
6 market cigars, which is unrelated to Cohiba.

7 Q. While you were working for -- while you  
8 were president for Fathom Research, were you also  
9 doing research for Censydiam?

10 A. While I was the head -- okay, Michael  
11 Cullen Marketing Consultant, Inc. was managing  
12 Censydiam.

13 Q. For how long was it managing Censydiam?

14 A. The full five years.

15 Q. The full five years -- which full five  
16 years?

17 A. The five years that I was managing  
18 director of Censydiam USA I was -- I was -- they  
19 were retaining Michael Cullen Marketing Consultant  
20 to be the managing director of Fathom Research --  
21 of Censydiam Research U.S.A.

22 Q. So let me get a timeline. From  
23 approximately 2013 to 2003 you were president of  
24 Fathom -- of Michael Cullen Marketing Consultant?

25 MS. RODRIGUES: Objection to form.

1 A. From when --

2 BY MR. FRANK:

3 Q. From 2013 to 2003 --

4 MS. RODRIGUES: Objection to form.

5 BY MR. FRANK:

6 Q. Were you working -- was any of your  
7 work between 2003 and 2013 related to Censydiam?

8 A. 2003 and 2013. No. Censydiam work  
9 took place before that.

10 Q. You indicated the study for General  
11 Cigar, the add on quantitative study, occurred in  
12 2016?

13 MS. RODRIGUES: Objection to form.

14 A. No, it would have been before.

15 BY MR. FRANK:

16 Q. 2006. You said 2006.

17 A. 2006? No, that wouldn't be right, it  
18 would be before. It occurred while I was working  
19 for Censydiam U.S.A.

20 Q. Did you search your files for a copy of  
21 that study in response to that --

22 A. No, I don't have any files relating to  
23 Censydiam USA.

24 Q. Who has those files?

25 A. They were destroyed.

1 A. Yes.

2 Q. Edgar Coleman, Jr.?

3 A. No, Sr., isn't it? Wasn't Jr. his son?

4 Okay. He was there, too.

5 Q. Edgar Coleman, Jr. was there as well?

6 A. Yes.

7 Q. Anyone else at the meeting?

8 A. People from General -- General Cigar, I  
9 don't remember who else.

10 Q. Approximately how many people?

11 A. Ten.

12 Q. Do you know their positions?

13 A. Well, their new research manager was  
14 there, that's the only person whose position I knew  
15 other than the president. I'm trying to think of  
16 her name, I can't -- the -- can't think of it.

17 Q. And what were the findings of the  
18 quantitative study for General Cigar concerning  
19 Cohiba?

20 A. Don't remember.

21 Q. Do you remember any portion of it, of  
22 the findings?

23 A. No.

24 Q. Did the study concern the Cuban version  
25 of the Cohiba brand cigar?





1 [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

13 Q. Did your findings indicate that those  
14 users had any other characteristics?

15 A. I can't remember. It was not a  
16 detailed -- it was not as detailed as the later  
17 study.

18 Q. Apart from add on study, were there any  
19 other studies concerning the Cohiba brand cigar  
20 that you worked on for Censydiam?

21 A. No.

22 Q. Did Fathom Research work on a  
23 segmentation study for Swedish Match in 2008?

24 A. Yes.

25 Q. And how did Fathom Research's

1 engagement concerning that study come about?

2 A. The study was actually conducted by  
3 InsightExpress.

4 Q. When you say conducted by, what does  
5 that mean?

6 A. Conducted by, done by.

7 MR. FRANK: I'm going to mark this as  
8 Exhibit 2.

9 (Cullen Exhibit 2 was marked for identification.)

10 BY MR. FRANK:

11 Q. I'm going to show you a document  
12 produced by Kantar Millward Brown in response to a  
13 document subpoena --

14 A. Okay, they've taken over now.

15 Q. They acquired InsightExpress. This  
16 document is labeled Bates No. KMB 000020 to KMB  
17 000025. Can you please look at page KMB 000023,  
18 the bottom two paragraphs?

19 A. Page 3?

20 Q. 23. The Bates numbered 23.

21 A. Okay.

22 Q. On the bottom, second-to-last paragraph  
23 says InsightExpress will be working in partnership  
24 with Fathom Research from start to finish on this  
25 project?

1 A. Right.

2 Q. Is that accurate?

3 A. Yes.

4 Q. In the last paragraph it says, with  
5 specialized proficiency and depth of category  
6 knowledge, Fathom Research will be responsible for  
7 the narrative analysis of findings and  
8 synthesizing all data sources.

9 A. Yes.

10 Q. Is that accurate?

11 A. Pretty close.

12 Q. Who from Fathom Research worked on the  
13 2008 study?

14 A. I did.

15 Q. Did anyone else?

16 A. Yes.

17 Q. Who?

18 A. David, my son.

19 Q. Did anyone else?

20 A. No.

21 Q. Were you the most senior person from  
22 Fathom Research working on this project?

23 A. Yes.

24 Q. And what work did David Cullen do on  
25 this project?

1           A.       He helped me with reviewing the data,  
2       and he -- he did part of the presentation at  
3       Swedish Match.

4           Q.       And who from InsightExpress worked on  
5       this project?

6           A.       Kevin Kruper, Kevin Evers, and John  
7       Pemberton. John Pemberton was key.

8           Q.       So you said John Pemberton was key?

9           A.       Yes.

10          Q.       What does that mean?

11          A.       He is the statistical wizard who made  
12       everything work. The distance between the points  
13       was a result of his algorithms.

14          Q.       To which points are you referring to?

15          A.       Points on any of the maps that were  
16       produced. He actually assisted quite a bit in  
17       synthesizing the data, that's why I said that's  
18       partially true.

19          Q.       And on KMB 000023, to what does  
20       specialized proficiency and depth of category  
21       knowledge refer to with respect to Fathom  
22       Research?

23          A.       I know everything about premier cigars  
24       there is to know. I think -- my very first study  
25       Edgar summed it up. He sat two feet from my face

1 and said, I thought you didn't know shit, you seem  
2 to know what you are talking about. And that was  
3 before I got into cigars.

4 Q. And when was that?

5 A. That was at the first presentation for  
6 the segmentation study, which was done without any  
7 assistance from General Cigar.

8 Q. To which segmentation study are you  
9 referring to?

10 A. The first one that was done by  
11 Censydiam. From that we've -- yeah, go ahead.

12 Q. Continue.

13 A. No, I'm all set.

14 Q. Who was in charge of analyzing the data  
15 for the 2008 segmentation study?

16 A. Analyzing the data. Tell me what you  
17 mean by analyzing the data just a little bit.

18 Q. Reviewing the data and synthesizing the  
19 data into a presentable form for the client?

20 A. Okay, I was in charge of that, but much  
21 of the work was done by John Pemberton.

22 Q. Who would have had final say in the  
23 presentation to the client?

24 A. I did.

25 Q. Who was in charge of presenting the

1 findings to the client?

2 A. I was. John's a statistical genius, he  
3 doesn't present well.

4 MR. FRANK: I'll mark this as Cullen  
5 Exhibit 3. This is a subpoena to produce  
6 documents.

7 (Cullen Exhibit 3 was marked for identification.)

8 MS. RODRIGUES: Can we go off the  
9 record?

10 (Discussion off the record.)

11 BY MR. FRANK:

12 Q. So on April 27, 2017 the petitioner  
13 sent a document subpoena on Michael Cullen  
14 Marketing Consultant, d/b/a Fathom Research.

15 A. Right.

16 Q. Is the document in front of you the  
17 subpoena that you received?

18 A. Yes, it is.

19 Q. Did you respond to the subpoena?

20 A. Yes, I did.

21 Q. And how did you respond?

22 A. I gave you -- I turned over a CD of  
23 everything that was presented or given to Swedish  
24 Match.

25 Q. Were all of the documents on the CD

1 given to Swedish Match?

2 A. Yes. That was my copy of the disk that  
3 I turned over to Swedish Match at the end of the  
4 study.

5 MR. FRANK: Mark this as Exhibit 4.  
6 (Cullen Exhibit 4 was marked for identification.)

7 BY MR. FRANK:

8 Q. The document in front of you is a  
9 printout of the list of files that were included  
10 on the CD.

11 A. Right.

12 Q. Does this list of files look familiar  
13 to you?

14 A. Yes.

15 Q. And all these files were provided to  
16 Swedish Match?

17 A. Yes.

18 Q. Do you recall to whom they were  
19 provided?

20 A. Doctor Edward Gee. Doctor Edward Gee,  
21 G-E-E.

22 Q. And do you know if he shared the  
23 documents with anyone else at Swedish Match?

24 A. I wouldn't know for sure what he did.

25 MR. FRANK: Can we go off the record.



1 (Discussion off the record.)

2 BY MR. FRANK:

3 Q. I'm providing -- I'm showing to you a  
4 document Bates numbered FR 0000001 to 14. This is  
5 a printout of the first document on the CD that  
6 was produced. The document was titled answers.  
7 Who was the author of this document?

8 A. I was.

9 Q. When was this document created?

10 A. Not sure.

11 Q. Do you know approximately when this  
12 document was created?

13 A. Nope. Might have been in answer to the  
14 questions raised at the presentation, but I'm not  
15 sure.

16 MR. FRANK: I'll introduce this as  
17 Exhibit 5.

18 (Cullen Exhibit 5 was marked for identification.)

19 A. There were problems with the study.

20 MR. FRANK: I'm marking as Exhibit 5 a  
21 printout of the document properties of each of the  
22 documents included on the CD.

23 A. Okay, then you know that I created it.

24 BY MR. FRANK:

25 Q. The document properties on the first

1 page for the answers document indicated that the  
2 document was created on October 25th, 2008.

3 A. Right.

4 Q. Do you have any reason to doubt the  
5 accuracy?

6 A. No.

7 Q. Did anyone else participate in the  
8 drafting of the document before you, FR --

9 A. Did anybody else --

10 Q. Participate in the drafting of the  
11 document?

12 A. I don't think so.

13 Q. And can you identify the document?

14 A. Can I identify it? Yes.

15 Q. What is it?

16 A. It's a document.

17 Q. Why would it be named answers?

18 A. I don't know. Maybe they were  
19 questions that were raised during the -- oh. Of  
20 course everything I have here would have been  
21 reviewed with the -- the Swedish Match.

22 Q. When you say everything you have here,  
23 what are you referring to?

24 A. All of this documentation would have  
25 been reviewed by Swedish Match, some of them in

1 advance of the presentation.

2 Q. Do you know which documents were  
3 reviewed in advance of the presentation?

4 A. Everything. I believe.

5 Q. Okay, I'm going to show you document  
6 FR 0000015 to 82. This is a printout of the  
7 document called final presentation on the CD  
8 produced in response to the document subpoena.

9 A. Yup.

10 Q. Can you identify that document?

11 A. Yes.

12 Q. What is that document?

13 A. It's the presentation.

14 Q. Presentation to whom?

15 A. Swedish Match.

16 Q. Concerning what?

17 A. Premium cigar segmentation study.

18 Q. And who was the author of that study?

19 A. I put it together.

20 Q. Did you draft the document?

21 A. Yes.

22 Q. Did anyone else assist in drafting the  
23 document?

24 A. I'm sure I reviewed it with Doctor Gee.

25 Q. Did the review take place before the

1 presentation?

2 A. Yes.

3 Q. Did Doctor Gee approve the document  
4 before the presentation?

5 A. Yes. Oh, there are parts in here that  
6 I did not produce. There are parts in here that  
7 were produced by InsightExpress.

8 Q. Did you review all the contents of that  
9 document?

10 A. Yes.

11 Q. I'm going to show to you a document  
12 Bates numbered FR 0000083 to 153. This is a  
13 printout of the document entitled modified final  
14 presentation on the CD produced.

15 A. Okay.

16 Q. Can you identify that document?

17 A. Yes.

18 Q. What is that document?

19 A. This appears to be a different version  
20 of the segmentation study presentation.

21 Q. And who is the author of that document?

22 A. It would be me.

23 Q. Did anyone else participate in drafting  
24 the document?

25 A. I'm sure if this is the revised version

1 that it was revised after discussions with  
2 Doctor Gee.

3 Q. So was it reviewed by Doctor Gee before  
4 the presentation?

5 A. Yes.

6 Q. Was it approved by Doctor Gee before  
7 the presentation?

8 A. Yes.

9 Q. Do you know when the document was  
10 created?

11 A. No. But you do.

12 Q. If you look at the document properties  
13 of the final presentation it indicates the  
14 document was created on September 29, 2008?

15 A. Right.

16 Q. And was the last saved on October 27,  
17 2008?

18 A. I don't know.

19 Q. Do you have any reason to believe that  
20 that information is inaccurate?

21 A. No. This is nine years ago, I can't  
22 remember everything that I did nine years ago.

23 Q. I'm going to show you a document,  
24 FR 0000154 to 169.

25 A. Yup.

1 Q. This is a printout of a document titled  
2 pocket charts on the CD produced.

3 A. Right.

4 Q. Can you identify that document?

5 A. Yes. Pocket charts.

6 Q. What are pocket charts?

7 A. Charts that we would have in case a  
8 question came up that was not covered in the  
9 presentation, usually going into more detail.

10 Q. Do you know who the author of this  
11 document was?

12 A. I think I produced most of them. There  
13 may be a couple of pages in here that were produced  
14 by InsightExpress.

15 Q. Did you review all of it before the  
16 presentation?

17 A. Yes.

18 Q. Did anyone else review it before the  
19 presentation?

20 A. I'm sure I gave it to Doctor Gee.

21 Q. Did he approve it before the  
22 presentation?

23 A. He reviewed it before the presentation.

24 Q. Did he approve it before the  
25 presentation?

1           A.       I don't -- he didn't have any  
2       objections.

3           Q.       And do you know when that document was  
4       produced?

5           A.       No.

6           Q.       The document properties indicate that  
7       the document was created on September 29, 2008.  
8       Do you have any reason to doubt that?

9           A.       No.

10          Q.       I'm going to show you a document  
11       FR 000170 to 190.   Can you identify that document?

12          A.       It could be the segment opportunities  
13       recap.

14          Q.       And what is that document?

15          A.       I think it's taking a look at the  
16       opportunities for each of the segments that was  
17       identified -- that were identified.   I'm not sure  
18       whether it was done before or after the  
19       presentation, but you've got that information.

20          Q.       And who was the author of that  
21       document?

22          A.       Many of the pages were done by -- many  
23       of the charts were done by InsightExpress, but I  
24       authored the overall document.

25          Q.       And did anyone else participate in

1 drafting the document?

2 A. David would have helped me.

3 Q. David Cullen?

4 A. Yes.

5 Q. And was the document reviewed by anyone  
6 else?

7 A. It was reviewed by InsightExpress and  
8 by Doctor Gee, I'm sure.

9 Q. Was it approved by Doctor Gee prior to  
10 the presentation?

11 A. I'm not sure.

12 Q. FR 0000170 to 190 is a printout of a  
13 document titled presentation part 2 that was  
14 included on the CD produced. The document  
15 properties of that document indicate that it was  
16 created on September 29th, 2008. Do you have any  
17 reason to believe that that information's not  
18 accurate?

19 A. No.

20 Q. I'm going to show you a document,  
21 FR 0000191 to 427. Can you identify that  
22 document?

23 A. Our segmentation study.

24 Q. From what year?

25 A. I believe that this is the report that



1       went along with the presentation. Yeah. This  
2       is -- yup.

3           Q.       And who was the author of that  
4       document?

5           A.       I was the author of the document, but  
6       many of the pieces that were included in here were  
7       produced by InsightExpress.

8           Q.       Did you review the final document  
9       before?

10          A.       Yes.

11          Q.       Did you review the text before it was  
12       finalized?

13          A.       Yes.

14          Q.       Did you approve the text before it was  
15       finalized?

16          A.       Yes.

17          Q.       Did anyone else assist in drafting the  
18       documents?

19          A.       My son David, Dave Cullen.

20          Q.       Did anyone else review the document  
21       before it was presented?

22          A.       It wasn't presented.

23          Q.       Before it was provided to Swedish  
24       Match?

25          A.       Yes, Doctor Gee had an opportunity to

1 review it.

2 Q. Did he approve the document?

3 A. He didn't disapprove anything. He may  
4 have suggested some changes, I'm not sure.

5 Q. You don't recall if he suggested any  
6 changes?

7 A. No.

8 Q. Do you recall any discussion of any of  
9 the documents included in the CD with Doctor Gee?

10 A. With Doctor Gee?

11 Q. Yeah.

12 A. No.

13 Q. The final document included on the CD  
14 is an Excel spreadsheet titled working AVE,  
15 Swedish Match tabs 5.22. Attached -- this  
16 document's identified as FR 0000428.

17 A. I don't think I charged enough money  
18 for this study here. Fortunately we weren't  
19 working by the pound.

20 Q. I'm showing Mr. Cullen a printout of  
21 one of the tabs of the Excel spreadsheet. Can you  
22 identify that document?

23 MS. RODRIGUES: Objection to form.

24 A. It's the tabulation of information.

25 BY MR. FRANK:

1 Q. What information?

2 A. From the study of the quantitative  
3 information. I believe that was produced by  
4 InsightExpress. It says InsightExpress here at the  
5 top, yeah. I wouldn't -- that was produced by  
6 InsightExpress, those are the tabs.

7 Q. When you say those are the tabs, what  
8 role did InsightExpress have in this study?

9 A. They tabulated all the information.

10 Q. What information? How was the  
11 information gathered?

12 A. Not well. Not well. All of the  
13 information from the questionnaires were tabulated.

14 Q. What questionnaire?

15 A. The questionnaire that was used to do  
16 the research.

17 Q. And who drafted the questionnaire?

18 A. You'd have to ask InsightExpress, I  
19 don't -- I don't have that. It was -- I believe it  
20 was electronic, so the draft would be difficult to  
21 read, if there was a draft.

22 Q. Did you review the questionnaire before  
23 it was --

24 A. Most definitely.

25 Q. Did you comment on the questionnaire?

1           A.       The questionnaire was good.

2           Q.       Did you make changes to the  
3 questionnaire?

4           A.       Yes. Now you're going to ask me what  
5 they were; I have no idea. Yes, we worked together  
6 as a team on the questionnaire.

7           [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[illegible]

[illegible]







[illegible]

1 [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

12 MR. FRANK: Off the record for a  
13 second.

14 (Discussion off the record.)

15 (Recess taken.)

16 MR. FRANK: Back on the record. I've  
17 provided the witness with a copy of FR 0000100 and  
18 FR 0000231 to 234.

19 MS. RODRIGUES: Are you introducing  
20 these as one exhibit?

21 MR. FRANK: Yes, this is one exhibit.

22 (Cullen Exhibit 6 was marked for identification.)

23 BY MR. FRANK:

24 Q. Can you please review those documents.

25 A. Yup.

[illegible]

16           Exhibit 7.

18 BY MR. FRANK:

23                      A.                      Uh-hum.

AVICORE Reporting - 603-666-4100

1 charts document.

2 A. Okay.

3 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

21 MS. RODRIGUES: Objection to form.

22 MR. FRANK: I'm going to mark

23 FR 0000221 as Exhibit 8.

24 (Cullen Exhibit 8 was marked for identification.)

25 BY MR. FRANK:

1           Q.       This is a document from the 2008  
2 premium cigar segmentation study, the full report.

3           A.       Good report.

4           [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1 [REDACTED]

2 BY MR. FRANK:

3 Q. Returning back to Exhibit 5. I'm  
4 sorry, Exhibit 6. If you could return to  
5 Exhibit 6, please.

6 A. What's Exhibit 6?

7 Q. It's that one.

8 A. Okay.

9 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1

2

MR. FRANK: I introduce FR 0000086 as

3

Exhibit 9.

4

(Cullen Exhibit 9 was marked for identification.)

5

BY MR. FRANK:

6

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

18

Q. Would those cigar smokers have

19

difficulty identifying other attributes?

20

MS. RODRIGUES: Objection to form.

21

A. Other attributes?

22

BY MR. FRANK:

23

Q. Of the cigar, of the cigar that they

24

smoke -- that they purchase?

25

A. You mean is it mild, is it strong?



1 What attributes are you talking about?

2 Q. Where the cigar comes from.

3 A. There are no cigar users who would  
4 think that the U.S. Cohiba comes from Cuba, if  
5 that's what you're getting at, no matter how  
6 uninformed they are. They might not know whether  
7 it comes from the Dominican Republic or Honduras,  
8 but we have yet to run into anybody who thinks it  
9 comes from Cuba.

10 Q. And what is the basis of that  
11 statement?

12 A. Talking to a cigar users in this study  
13 and a thousand others about cigar origins.

14 Q. Does the 2008 segmentation study ask  
15 the participants whether they think there's any  
16 relation between the U.S. --

17 A. No.

18 Q. -- Cohiba cigar brand --

19 A. No. It's so obvious.

20 Q. -- and the Cuban cigar?

21 A. It's so obvious we wouldn't ask that.

22 Q. Does it ask if there's any licensing  
23 arrangement between --

24 A. Oh, no. No, that would be a really  
25 silly question to ask a consumer. We did speak

1       about -- we did make reference to Cuban cigars from  
2       Cuba, and I can't remember the exact device we  
3       used. I think we used the neck band to help people  
4       distinguish the two cigars so they understood what  
5       we were talking about.

6               But I haven't run into anybody yet who  
7       has said that they think that any of the cigars  
8       sold in the U.S. come from Cuba. Most people know  
9       that it's not allowed -- all people know that it's  
10      not allowed.

11             Q.       And why do you say most people?

12             A.       It was all people.

13             Q.       What -- and what is the basis of that  
14      statement?

15             A.       Talking to cigar users over the past  
16      ten years.

17             MR. FRANK: I'm going to mark as  
18      Exhibit 10 FR 0000121.

19             A.       But they're not going to be able to  
20      tell you if it was Honduras or Dominican Republic  
21      that a particular cigar came from.

22      (Cullen Exhibit 10 was marked for identification.)

23      BY MR. FRANK:

24             Q.       I show you FR 0000121.

25             MS. RODRIGUES: This is Exhibit 10?

[illegible]

1 population -- of the U.S. cigar smoking  
2 population?

3 A. Not high. I don't know if it's not  
4 high, I have no way to know, really. So you were  
5 saying that -- strike that.

6 Q. So did the U.S. cigar consumers --  
7 strike that.

8 Does the 2008 cigar survey attempt to  
9 track the awareness within the U.S. cigar  
10 consumer -- within U.S. cigar consumers of the  
11 Cohiba brand?

12 A. Yes.

13 Q. And was the awareness strong or weak?

14 A. Strong. I don't know, you have the  
15 numbers. I'm guessing it was somewhere above 80,  
16 90 percent.

17 Q. And do you think that the U.S. --  
18 strike that.

19 A. I think General Cigar did a good job of  
20 marketing the Cohiba brand in the U.S.

21 Q. Do you think that the strong awareness  
22 of the Cohiba brand cigar within the U.S. cigar  
23 smokers is an awareness of the General Cigar  
24 Cohiba or the Cuban Cohiba?

25 A. The General Cigar Cohiba. They've done



25 FR 0000244. Can you please review the document.

1                   The purchase locations are divided into  
2           mail order, slash, catalog, online, and at a  
3           specialty cigar, slash, tobacco store.

4           A.       Uh-hum.

5           Q.       Is that correct?

6           A.       Correct.

7           Q.       Do the specialty cigar, slash, tobacco  
8           stores listed here include other type of locations  
9           where consumers purchase cigars?

10          A.       Cigar bar.

11          Q.       A liquor store?

12          A.       I don't know if we gave them much -- if  
13          we gave them a choice for liquor -- no, maybe we  
14          did -- no.

15          Q.       Would it include --

16          A.       Don't know.   I'm not sure that was an  
17          option we gave people.

18          Q.       Would it include convenience stores?

19          A.       No.   As soon as you include convenience  
20          stores you're inviting people to respond to mass  
21          market cigars rather than premium cigars.   I mean,  
22          there are gas stations that sell premium hand  
23          rolled cigars these days.

24          Q.       Correct.

25          A.       But, no.

1 Q. Do all of the numbers in that chart add  
2 up to 100 percent?

3 A. 104. No, they don't add up to 100.

4 MS. RODRIGUES: In which chart?

5 MR. FRANK: Under purchase location.

6 A. But online and specialty cigar stores  
7 are the major -- 71, 91, 100. That adds up to a  
8 hundred, I don't know.

9 MS. RODRIGUES: I think they do.

10 A. I don't think we gave them an option  
11 about saying do you buy it in convenience stores,  
12 do you buy it -- I think we just asked do you do  
13 mail order, online or at a specialty cigar store.

14 BY MR. FRANK:

15 Q. Of the three options provided, are  
16 there any -- which is the option -- how many of  
17 the three options provided are physical locations?

18 A. One.

19 Q. Are premium cigars sold at convenience  
20 stores?

21 A. Are they ever sold at convenience  
22 stores? Yes, sometimes.

23 Q. Liquor stores?

24 A. Yes, sometimes.

25 Q. Drugstores?



1           A.       Not that I know of.   Very small  
2       numbers, I mean.   It was ten years ago, it may have  
3       changed now, I'm not sure on that.   This would  
4       cover almost all of the outlets for premium cigars.

5           Q.       When you say this, to what are you  
6       referring?

7           A.       Mail order, online, specialty cigar  
8       stores.   And that's shifted a lot since then, I'm  
9       sure.   I'm sure online is much larger now than it  
10      was before.   Part of that has to do with the tax  
11      structure.

12          Q.       Did this survey -- did the 2008  
13      segmentation study identify what percentage of  
14      smokers purchase cigars at different types of  
15      physical locations?

16          A.       No, we just said at -- I believe we  
17      just said at specialty cigar/tobacco stores.   The  
18      normal way to look at the industry is mail order,  
19      online versus specialty cigar/tobacco stores.  
20      That's a normal way to look at -- at the category.

21                 Could you buy a cigar at a golf club?  
22      Could you buy a cigar -- yeah, there are many  
23      places you could buy a cigar, but the bulk of  
24      cigars are sold through those two primary outlets.

25          Q.       Were the presentations of the 2008

- 1 segmentation study presented to Swedish Match?
- 2 A. Yes.
- 3 Q. Do you know when?
- 4 A. No. The room was very smoky, as I told
- 5 you.
- 6 Q. Do you remember where it was?
- 7 A. Richmond.
- 8 Q. Would the presentation have occurred in
- 9 2008?
- 10 A. Could have, I'm not sure.
- 11 Q. Do you know who was in the room during
- 12 the presentation?
- 13 A. About 30 people.
- 14 Q. Were they all from Swedish Match?
- 15 A. No.
- 16 Q. Where else were they from?
- 17 A. The advertising agency, the promotional
- 18 agency.
- 19 Q. Who was the advertising agency?
- 20 A. I don't remember.
- 21 Q. Who was the promotional agency?
- 22 A. Don't remember.
- 23 Q. Who else?
- 24 A. Oh, the people from InsightExpress, of
- 25 course.

1 Q. Anyone else?

2 A. That's it.

3 Q. Was anyone from General Cigar there?

4 A. Oh, yes.

5 Q. And who from Swedish Match attended  
6 that presentation?

7 A. The president of the company, the --

8 Q. Who was that?

9 A. I'm having a brain freeze, sorry. The  
10 head of market research, the director of premium  
11 cigars and brand managers, promotional managers.

12 Q. Do you recall any of their names?

13 A. No. Ed Gee.

14 Q. Anyone else?

15 A. And Kevin Evers and Kevin Kruper were  
16 there.

17 Q. From InsightExpress?

18 A. Yes.

19 Q. And who was there from General Cigar?

20 A. General Cigar was Swedish Match at that  
21 point.

22 Q. And was there any discussion of the  
23 presentation by the participants?

24 A. Not much. A little, yeah, a few  
25 questions at the end. It was a long presentation.

1 Q. Did any concern Cohiba?

2 A. Yes.

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 Q. Was there any discussion of Cuban brand  
14 cigars?

15 A. Discussion, no. They never discussed  
16 that. At any meeting I've ever been at they've  
17 never discussed the Cuban cigars.

18 Q. You never discussed Cuban cigars with  
19 Swedish Match?

20 A. Oh, yes, I have discuss -- I made a --  
21 one-sided discussion. I proposed that we do some  
22 research, and was told that that would be illegal.

23 Q. And what was the research that you  
24 proposed doing?

25 A. Comparing physical Cuban cigars and

1 Q. Any work concerning Cohiba?

2 A. No.

3 Q. Any work concerning Cuban cigars?

4 A. No. She did work for a competitor of  
5 General Cigar. I'm not sure what that was. We  
6 wouldn't have shared that information.

7 Q. Did she do any work for General Cigar?

8 A. She worked with me on several General  
9 Cigar projects.

10 Q. Any concerning Cohiba?

11 A. No.

12 Q. Any concerning Cuban cigars?

13 A. No. Because she had been working for a  
14 competitor at that point.

15 Q. You indicated previously that you had  
16 done a study concerning Siglo brand?

17 A. It was one of the elements of a study  
18 that I did.

19 Q. Did you search your files to see if you  
20 have a copy of that work?

21 A. No.

22 Q. Would that study reference Cohiba?

23 A. I mean, I found the segmentation study  
24 for you, dude. No, the question is -- I did not  
25 see that as being a Cohiba study. I mean, every

1 study I ever did would have referenced Cohiba in  
2 it. You can't do a cigar study without Cohiba  
3 coming up.

4 Q. And why is that?

5 A. One of the most popular brands of cigar  
6 in the U.S., because it has -- there's 46 percent  
7 of the people smoke it.

8 Q. The document request served on you  
9 requests all documents concerning General Cigar --  
10 or the Cuban Cohiba cigar products and cigar --  
11 and Cohiba brands, whether or not Cohiba was the  
12 subject of the work. Would you review your files  
13 to see if --

14 A. I'll take a look and see if I can find  
15 it.

16 Q. And any other study concerning the  
17 Cohiba brand?

18 A. I'd have to go through each study to  
19 see if the word Cohiba was mentioned in the -- in  
20 the study. It was very common in the study. One  
21 of the things they liked to do was lay out a lot of  
22 cigars.

23 Even if you were talking about ideas  
24 that have nothing to do with Cohiba, we would lay  
25 out a number of cigars, and you do a mock setup and

1 see what people would buy; you could pick two  
2 cigars out of all of these.)

3 Cohiba was always in the mix of the  
4 cigars that you could pick, but it was not a Cohiba  
5 study or a study that had anything to do with  
6 Cohiba.

7 MR. FRANK: Let's take a five-minute  
8 break, I want to review.

9 MS. RODRIGUES: Sure.

10 (Recess taken.)

11 MR. FRANK: I'm going to mark as  
12 Exhibit 12 a document produced with Bates number  
13 KMB 000037. It's a printout of one of the tabs of  
14 an Excel spreadsheet.

15 (Cullen Exhibit 12 was marked for identification.)

16 BY MR. FRANK:

17 A. So you do have the questionnaire.

18 Q. Can you please identify?

19 A. This looks like the questionnaire.

20 Q. When you say the questionnaire,  
21 questionnaire for what?

22 A. The survey.

23 Q. For the 2008 --

24 A. Right.

25 Q. -- survey? Can you identify which

1 question would have tracked U.S. consumers'  
2 awareness of the different brands?

3 A. Help me out if you know where it is.  
4 It might have been part of the screener versus  
5 the --

6 Q. Question 8 says which of the brands of  
7 cigars have you heard of?

8 A. Right.

9 Q. You may click on the name to see the  
10 image of the cigar band?

11 A. Uh-hum.

12 Q. And click the X in the image window to  
13 close the window.

14 A. Yup.

15 Q. Throughout the survey if you wish to  
16 see the cigar band again you can click on  
17 the highlighted --

18 A. Yup, yup.

19 Q. Would that be the question that would  
20 have tracked awareness?

21 A. Yes.

22 Q. Would there have been any other  
23 question?

24 A. Yeah. No, that could be the awareness  
25 question. There could have been a screener, but



1 I'm not sure. But that's the -- that's the  
2 question from the survey.

3 Q. Were the respondents required to click  
4 on the image of the cigar band?

5 A. Yes.

6 Q. How do you know that?

7 A. Okay, I don't know. You'll have to ask  
8 InsightExpress.

9 Q. It says you may click on the cigar  
10 name?

11 A. Usually -- no. I don't know. I don't  
12 know how the mechanics of the questionnaire worked.  
13 You'll have to talk to somebody who used to be at  
14 InsightExpress. Everyone in the study that I'm  
15 aware of picked at least one cigar brand.

16 Q. Do you recall what the image of the  
17 cigar band looked like for Cohiba?

18 A. Yup.

19 Q. What did it look like?

20 A. It looked like the Cohiba -- of course  
21 there's a black, but it looked like -- like that,  
22 but without the gold frame on it.

23 Q. Just the word Cohiba?

24 A. Just the word Cohiba. And it was a  
25 photograph of this. So it would have said Cohiba,

1       program that appeared on the screen. I believe  
2       the -- okay. I would be very disappointed if it  
3       did not terminate at the fact you were asked to  
4       pick a cigar band and you didn't pick one.

5           Q.       Turn to question 68, please. Question  
6       68 says, please compare the Cuban brand to its  
7       Dominican counterpart. If you have not tried  
8       either one of these Cuban brands of cigars, please  
9       try to imagine what they would be like and compare  
10      the Cuban brand to its Dominican counterpart.

11          A.       Uh-hum.

12          Q.       The Cuban brands of cigars in this  
13      sentence refers to Cuban brand and Dominican  
14      counterpart?

15                   MS. RODRIGUES: Objection to form.

16      BY MR. FRANK:

17          Q.       Does the Cuban brands of cigar in this  
18      sentence refer to the Cuban brand and its  
19      Dominican counterpart?

20          A.       For two brands, yes. Yes. I believe  
21      the two brands were Montecristo and Cohiba.

22          Q.       But does this question only refers --  
23      to what brand -- does this question identify a  
24      specific brand of cigar?

25          A.       Oh, yeah. Okay, this identifies

1 Cohiba.

2 Q. Does this question identify any other  
3 brand?

4 A. I don't see it here. Oh, yeah, Cuban  
5 Montecristo.

6 Q. Question 68 you're referring to?

7 A. No, question 69.

8 Q. But question 68, does it refer to any  
9 brand other than Cohiba?

10 A. No, 68 was purely the Cuban Cohiba  
11 versus the Dominican counterpart. 69 was the same  
12 question for the Montecristo brand and the  
13 Dominican counterpart.

14 Q. And both the Cuban brand and the  
15 Dominican counterpart is identified as Cuban brand  
16 of cigars, is that correct?

17 MS. RODRIGUES: Objection to form.

18 A. Correct.

19 BY MR. FRANK:

20 Q. Did part of the 2008 survey concern the  
21 Cuban Cohiba cigar brand?

22 A. Yes.

23 Q. And what impression do U.S. consumers  
24 have of the Cuban Cohiba cigar brand?

25 MS. RODRIGUES: Objection to form.

1           A.       You could give consumers this junky  
2 Cuban cigar, and they would tell you it's  
3 everything that they believe a Cuban cigar should  
4 be. It's just the forbidden fruit. They're just  
5 in love with the idea that it's a Cuban cigar.

6           Q.       U.S. cigar consumers are in love with  
7 the fact that -- are in love with Cuban cigars?

8           A.       The idea of Cuban cigars, yes. And  
9 they'll make it be whatever they want it to be.

10           MR. SMITH: And for the record the  
11 witness is pointing to a --

12           A.       Yeah, a Guantanamera tourist cigar of  
13 low quality.

14           MR. FRANK: I'll introduce FR 0000366.

15 (Cullen Exhibit 13 was marked for identification.)

16 BY MR. FRANK:

17           Q.       Can you review the document, please.

18                   Does this chart indicate U.S.  
19 consumers' perception of the quality of the Cuban  
20 Cohiba cigar?

21           A.       Yes, they perceive it to be higher  
22 quality.

23           Q.       Higher quality than what?

24           A.       Of a higher quality, it doesn't say.

25           Q.       Does the chart indicate that a question

1           A.       I sup -- because all of the respondents  
2       were in the U.S.  Because earlier on when it  
3       said -- when it asked about what cigars you used,  
4       they indicated Cohiba or Montecristo.  We didn't  
5       ask them U.S. or Cuban at that point.

6           Q.       So you don't know?

7           A.       This is bizarre, but our objective was  
8       to talk to people -- our objective was to talk to  
9       people who currently used Montecristo or Cohiba  
10      cigars sold legally in the U.S. and see -- among  
11      those people who had tried a Cuban cigar, get their  
12      opinion of a Cuban cigar.

13          Q.       So what is -- to return, what is the  
14      U.S. cigar consumers' perspective of the quality  
15      of the Cuban Cohiba brand cigar compared to the --

16          A.       We didn't give them a comparison.

17      [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

1 [REDACTED]  
2 [REDACTED]

3 Q. I'm going to show you FR 0000148.

4 MR. FRANK: Mark it as Exhibit 14.

5 (Cullen Exhibit 14 was marked for identification.)

6 BY MR. FRANK:

7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]

21 Q. Is there evidence of it in the 2008  
22 survey?

23 A. You couldn't answer the question unless  
24 you assumed there was a difference.

25 Q. What?

1 Q. Did that refer -- did that subpoena  
2 refer to any of your Cohiba related work?

3 A. No, I believe it was mass market. We  
4 just provided the raw data of whatever we had.

5 Q. So can you review Exhibit -- what  
6 exhibit number is that?

7 A. This one, 12.

8 Q. Yeah, Exhibit 12. Do any of the  
9 questions inform the survey participant that the  
10 Cuban Cohiba brand cigar and the non-Cuban Cohiba  
11 brand cigar are produced by different companies?

12 A. No, but it differentiates between those  
13 two cigars.

14 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

25



████████████████████

Q. Excuse me?



1           A.       On occasion the respondents have  
2       pointed that out to me.

3           Q.       But as part of your work, have you ever  
4       informed the participants that there's no  
5       association between the company that produces the  
6       Cuban Cohiba brand cigar and the non-Cuban Cohiba  
7       brand cigar?

8           A.       I can't recall.   Qualitative research  
9       is whatever -- whatever comes out of my mouth comes  
10      out of my mouth.   But, no, I have not made an  
11      effort to do that, but we usually don't bring up  
12      the Cuban cigars.

13                   The Cuban cigars -- if it comes up, it  
14      usually comes up on the part of the respondents,  
15      who are very quick to say it's a totally different  
16      company.

17           Q.       Have you ever informed -- in any of  
18      your studies have you informed participants that  
19      there is no licensing arrangement between the  
20      company that makes the Cuban Cohiba cigars and the  
21      company that makes the non-Cuban Cohiba cigars?

22                   MS. RODRIGUES:   Objection, asked and  
23      answered.

24           A.       No.   No, there's no -- no.

25      BY MR. FRANK:

1           A.       In the case of Cohiba there's been  
2       no --

3           Q.       But you didn't do that?

4           A.       We didn't do that. We've never had a  
5       sign that there's any confusion between those two  
6       brands. I did work for Labatt, and we didn't  
7       inform anybody that Budweiser that's sold in Canada  
8       has nothing to do with Budweiser sold in the Czech  
9       Republic, either. Just would not be part of the  
10      research.

11                   MR. FRANK: Let's go off the record.  
12      Give me another five minutes, I think I'm wrapping  
13      up on my side.

14                   MS. RODRIGUES: Okay.

15                   (Recess taken.)

16           A.       Can I explain a bit more, or explain  
17      the difference between the Cuban cigars and the  
18      Dominican cigars to consumers?

19      BY MR. FRANK:

20           Q.       Can I ask a question first, and then  
21      maybe it will --

22           A.       Okay, you can ask your question.

23           Q.       Refer to Exhibit 10, please.

24           A.       Okay.

25           Q.       That's FR 0000121.



1

█

█

█

5

MR. FRANK: Off the record for a  
second.

6

7

(Discussion off the record.)

8

MR. FRANK: I'm going to mark

9

FR 0000211.

10

(Cullen Exhibit 15 was marked for identification.)

11

BY MR. FRANK:

12

Q. Can you review that document?

13

MS. RODRIGUES: Do you have a copy for  
me?

14

15

MR. FRANK: I'm sorry, didn't I give  
you one?

16

17

MS. RODRIGUES: Thank you.

18

BY MR. FRANK:

19

Q. Have you reviewed Exhibit 15?

20

A. Yes.

21

Q. What is the percentage of brand

22

familiarity attributed to Cohiba on this page?

23

A. Close to 46, I guess.

24

Q. And what about the brand familiarity

25

with Macanudo, approximately?

1           A.       Thirty-eight.   It's number three behind  
2       Cohiba and Montecristo.

3           Q.       Is it below the 38?

4           A.       Below the 38.

5           Q.       And above which percentage?

6           A.       37.2, I don't know.   It's between 36  
7       and 38.   Before you put too much weight -- before  
8       you put too much weight behind this chart you might  
9       note that Bolivars, an obscure brand, and it's  
10       somehow rated at 36, and it may be a function of  
11       the way the sample was drawn for the study.   So  
12       that was my first warning in terms of the validity  
13       of the data that something wasn't right.

14          Q.       And what is the percentage of brand  
15       familiarity for Montecristo, approximately?

16          A.       Forty-two.

17          Q.       Is it below the 42, or at 42, or above  
18       42?

19          A.       It's 40 -- it's close -- I don't know,  
20       it's between 40 and 42.   You could look it up on  
21       the table, if you want.

22          Q.       And refer back to Exhibit 10, please.  
23       Does this help you understand to what the higher  
24       awareness for Cohiba Montecristo refers to?

25          A.       Cohiba Montecristo, and the next one



1 going to people who have used Cohiba, who have used  
2 Montecristo, and then they're clicking on that  
3 label, partially because they've used it.  
4 Awareness is partially driven by experience, as  
5 well as other factors.

6 So you've got the three biggest brands,  
7 Cohiba, Montecristo and Macanudo, and depending on  
8 what size you include of cigars, Macanudo would  
9 actually be even -- even higher in terms of -- of  
10 use. So you've got the three most popular cigars  
11 have the three highest awareness, that's sort of  
12 basic.

13 Q. But you had made a point in your  
14 presentation that the awareness statistics  
15 probably relate to awareness of Cuban --

16 A. More than the segment that they fall  
17 in. There are many other Cuban brands on this --  
18 Cuban mirror brands on this list that didn't have  
19 the benefit of the awareness, but we knew the  
20 awareness of the Cohiba and Montecristo is high in  
21 the U.S., they're the most popular brands in the  
22 U.S., and we also know that they're the most well  
23 recognized of the Cuban brands.

24 Q. And does this refresh your recollection  
25 about the reference to the same relationship

1 are well differentiated in the consumers' mind;  
2 they are two separate brands. Does this guy  
3 benefit from this guy? Sure.

4 Q. You're pointing to --

5 A. Oh, yeah.

6 Q. -- does the General Cigar Cohiba  
7 benefit from the Cuban --

8 A. Of course. Just the way Partagas does,  
9 too, but maybe more so because the recognition of  
10 the cigar is higher.

11 Q. How do they benefit from the Cuban  
12 cigar?

13 A. Image. The Cuban cigars have a  
14 positive image, and this is the best known Cuban  
15 cigar. So, I don't know. I think -- I think it's  
16 definitely a separate brand, it's recognized by the  
17 consumer as a separate brand.

18 Q. But you're saying that the Cuban Cohiba  
19 impacts the recognition of U.S. cigar consumers in  
20 their selection of the General Cigar Cohiba brand  
21 cigar?

22 MS. RODRIGUES: Objection to form.

23 A. I can't go that deep, I'm sorry. But  
24 it doesn't hurt, that's for sure. The U.S.  
25 cigar -- when you -- when you have the two cigars



1 side by side, the U.S. cigar will be described as  
2 fake, imitation, phony.

3 BY MR. FRANK:

4 Q. You're referring to the U.S. Cohiba  
5 cigar?

6 A. Yes. There's no confusion that it's  
7 the same cigar. Sorry, I'm making myself a bad  
8 enough witness so you won't call me for the trial,  
9 I'm not successful.

10 Okay, that's all I wanted to say. I  
11 just wanted to reinforce that fact, that it's a  
12 different brand developed differently with  
13 different images, and the image of the Cuban cigar  
14 is better than the image of the U.S. cigar.

15 But image is a fragile item. If you  
16 were to bring it to the U.S., the fact that it was  
17 made by the stoners in the Partagas factory would  
18 probably greatly diminish your cachet.

19 MR. FRANK: Let's go off the record for  
20 five minutes. I may have another question or two.

21 MS. RODRIGUES: I have a few, but it  
22 shouldn't take long.

23 (Recess taken.)

24 BY MR. FRANK:

25 Q. Have you ever conducted a survey or

1 study in which you've tested the confusion between  
2 the Cuban Cohiba brand cigar and the General brand  
3 Cohiba brand cigar?

4 MS. RODRIGUES: Objection.

5 A. Only through observation.

6 BY MR. FRANK:

7 Q. What does that mean, through  
8 observation?

9 A. It means I didn't ask the question, but  
10 I got the answer.

11 Q. And in what context did you get the  
12 answer? How many people gave you an answer to  
13 support your conclusion?

14 A. More than a hundred.

15 Q. Approximately a hundred?

16 A. More than a hundred.

17 Q. Less than 200?

18 A. Yeah, about a hundred. It's a hundred  
19 out of a hundred, though. I mean, it's a  
20 hundred -- it's a hundred, which is a hundred  
21 percent. Go ahead.

22 Q. Within what period of time?

23 A. Ten years.

24 Q. Between 2003 and 2013, or some other  
25 ten --

1           A.       Yeah, 2003 and 2013. Anytime you hold  
2       up -- anytime you hold up a Cohiba cigar, look at a  
3       Cohiba cigar, sort with a Cohiba cigar in it,  
4       somebody in the group will immediately point out,  
5       that's not the real Cohiba from Cuba, that's from  
6       the Dominican Republic, or it's an American cigar.  
7       Happens all the time, unsolicited.

8           Q.       Do you know anything else about those  
9       hundred people that made those statements?

10          A.       Cigar smokers.

11          Q.       Would they be categorized as cigar  
12       lovers?

13          A.       They would -- more. Cigar lovers  
14       usually tend to shoot their mouths off, so usually  
15       the person that speaks up is a cigar lover. So I  
16       would say more than whatever the percentage is for  
17       cigar lovers, they would represent a larger  
18       percentage of people saying that than -- than they  
19       represent, but it's not exclusive to them.

20          Q.       Apart from self-volunteered statements,  
21       has there been any other study --

22          A.       No.

23          Q.       -- to test confusion between the Cuban  
24       Cohiba brand cigar and the non-Cuban Cohiba brand  
25       cigar?

1           A.       No, only when people have volunteered  
2       the information.)

3           Q.       Is there any other -- strike that.

4           A.       Nobody's ever said that about  
5       Montecristo, or Partagas or Romeo y Julietta. The  
6       only things that people differentiate  
7       between the -- immediately, spontaneously  
8       differentiate is Cohiba.

9           Q.       How many people in the 15 years that  
10       you've been conducting market research -- strike  
11       that. Did you conduct market research prior to  
12       working for Censydiam?

13          A.       Censydiam? No. I have no market  
14       research experience --

15          Q.       Prior to your work for Censydiam --

16          A.       -- prior to working for Censydiam. I  
17       was a customer. I worked for Unilever for 25  
18       years.

19          Q.       And what did you do at Unilever?

20          A.       Marketing. Canada, the U.S. and Japan.  
21       I know a little something on brands.

22          Q.       In the 15 years that you conducted  
23       market research for Censydiam and Fathom  
24       Research --

25          A.       Right.

1 advertising, and we didn't use -- yeah -- we didn't  
2 use -- and we didn't use referrals. Then when you  
3 started to use advertising and referrals to build  
4 your sample you get Bolivar coming out at 30  
5 percent of something that's not -- not real.

6 Q. Of the 100 people that you referred to  
7 as having made statements concerning confusion,  
8 did any of those occur in the last four years?

9 A. Last four years from now?

10 Q. Yeah.

11 A. No, I didn't do any research in the  
12 last four years. My number 450 is probably wrong,  
13 because that was -- that's more like 1,800 people  
14 I've talked to on cigars in qualitative research.  
15 So the hundred would have come out of 1,800. So  
16 one out of 18 would have spontaneously --

17 Q. How many do you recall made that  
18 statement between 2010 and 2013?

19 A. I said a hundred out of my 1,800 people  
20 I was talking to.

21 Q. But that was between 1998 and 2013?

22 A. Oh, I didn't do any qualitative work  
23 before -- yeah, we did one. I did a qualitative  
24 work -- I did a piece of qualitative in conjunction  
25 with preparation for the quantity, but that --

1       that -- it didn't occur there.

2                       So since I've been working for Fathom  
3       Research, we did 1,800 individual interviews or  
4       group interviews, and 100 people, at least,  
5       spontaneously pointed out the difference between  
6       those two cigars without being asked. Nobody ever  
7       pointed out the difference between Partagas,  
8       Romeo y Julietta, or any of the other mirror  
9       brands.

10               Q.       You said you did work for Unilever  
11       prior to your work for Censydiam?

12               A.       Yes.

13               Q.       Please briefly describe that work.

14               A.       I was vice president of marketing in  
15       Canada, and I was the managing director in Japan,  
16       and I was marketing director in the U.S., brand  
17       manager in the U.S., salesman in the U.S.

18               Q.       And any work experience prior to  
19       working for Unilever?

20               A.       U.S. Navy.

21               Q.       Any work in marketing prior to  
22       Unilever?

23               A.       No. I know a brand when I see it, and  
24       I know two brands versus one brand when I see it.

25                       I love it when you work so hard for a

1 question.

2 Q. What percentage of the hundred who  
3 indicated -- who made statements concerning  
4 confusion would you say would be categorized as  
5 cigar lovers?

6 A. Probably half. In a group of cigars  
7 lovers always -- you have to be controlled, because  
8 they -- they take over. They'll run the group, if  
9 I let them.

10 Q. And how do you know that? How do you  
11 know that they would be categorized as cigar  
12 lovers?

13 A. Okay, a cigar lover is a guy who smokes  
14 cigars every day. And we go through how many  
15 cigars do you smoke, where do you smoke them. And  
16 we go through their general knowledge of cigars,  
17 and those are the guys that, as I said before, know  
18 which side of the mountain the tobacco was grown  
19 on.

20 Those are the guys that are smoking not  
21 two cigars a month, but five, six cigars a week.  
22 Those are the cigar lovers, and you can identify  
23 them very quickly within the group. And as part of  
24 doing the research you have to do that, because  
25 they'll shut everybody else out and dominate the

1 conversation. So about half the time those were  
2 the guys that pointed that out to me.

3 Q. And how many of the remaining  
4 approximately 50, how many were comfort seekers?

5 A. It's hard to -- it's hard to categorize  
6 people by the other groups. The cigar lovers  
7 really stand out in a situation. The others you're  
8 more into splitting hairs and we don't really  
9 categorize each person like that. Cigar lovers  
10 have a special relationship and personality, so  
11 they stand out.

12 MR. FRANK: Okay, I think I'm done.

13 THE WITNESS: Okay, here come the hard  
14 questions now.

15 EXAMINATION

16 BY MS. RODRIGUES:

17 Q. Okay, let's go back to Exhibit 10,  
18 which Mr. Frank asked you about just a few minutes  
19 ago. This is my copy, you can have it.

20 And this is the exhibit that states  
21 that there is higher awareness for Cohiba and  
22 Montecristo, and then it also goes on to state it  
23 probably relates to the awareness of the Cuban  
24 versions of these brands. Do you see that?

25 A. Yes.



1 Q. Did this 2008 survey measure any of the  
2 reasons for consumers' awareness of certain  
3 brands, any brands?

4 A. No. The only thing it did measure was  
5 use, so use could be correlated with awareness, but  
6 no. Beyond that, no.

7 Q. You also mentioned earlier today that  
8 it was your belief that General Cigar had a very  
9 effective marketing campaign for its Cohiba cigar,  
10 is that accurate?

11 A. Yes.

12 Q. And that also could drive high degrees  
13 of awareness, is that accurate?

14 A. Yes.

15 Q. Going back to Exhibit 15 which  
16 Mr. Frank just asked you about recently, which is  
17 the brand familiarity chart.

18 A. Right.

19 Q. We discussed earlier Cohiba,  
20 Montecristo and Macanudo in particular. Are there  
21 other brands here that have Cuban counterparts?

22 A. Yes.

23 Q. Which brands?

24 A. As far as I know, you've got Punch,  
25 Davidoff. Oh, I'm in trouble -- Romeo y Julietta,

1 Montecristo, Cohiba. Who's over here? I'm not  
2 sure on some of the others.

3 Q. Partagas?

4 A. Partagas for sure, Partagas. Padron, I  
5 believe.

6 Q. And the brands that you just mentioned,  
7 other than Cohiba and Montecristo, do not have the  
8 same degree of high awareness as Cohiba and  
9 Montecristo, do you agree?

10 A. I agree.

11 Q. So can you, in fact, conclude that  
12 brand awareness has anything to do with a Cuban  
13 association or any Cuban parallel brand?

14 A. I can conclude that brand is -- that  
15 the Cuban brand association alone will not drive  
16 awareness. It may help it, but I could not  
17 conclude that it -- that it's a prime definer of  
18 awareness.

19 Q. You mentioned earlier that you felt  
20 that there were some issues with the validity of  
21 the data and that something was not right with the  
22 data that came back?

23 A. Yes.

24 Q. Can you explain that further? What  
25 were your views on the data?

1       so that we could read them. Their perception of  
2       the world is quite different from all other premium  
3       cigar users, so that distorted the sample.

4               Havana Honeys being right next to  
5       Hoyo de Monterrey, that makes no sense at all.  
6       They should have all been down here with Acid and  
7       Kahlua.

8               Once again, Acid and Kahlua kind of  
9       came in -- flavored cigars came in at a very  
10      strange spot. You never expect it to be next to  
11      Excalibur, Rum and Punch, it's a whole different  
12      type of thing. Those type of things caused me to  
13      say, um, maybe the sample wasn't as good as it  
14      should have been.

15              Q.       Earlier you mentioned that of the  
16      Cohiba users, or of the Cohiba and Montecristo  
17      users, many believed that they had smoked the  
18      Cuban versions of those cigars, is that correct to  
19      say?

20              A.       Yes.

21              [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

1

2

3

4

Q. Okay. And Mr. --

5

6

A. It comes from articles in the press about imitation cigars.

7

8

9

10

Q. Mr. Frank asked if those counterfeit or fake cigars could be General Cigar cigars, and you said that you could put a band on any cigar, is that accurate?

11

A. Right.

12

13

14

15

Q. So, just to be clear, does that mean that I could purchase a cigar manufactured by General Cigar, or any other company, and take the band off and put a counterfeit band on it?

16

17

18

19

20

21

A. Right. So you couldn't exclude the fact that they might have purchased a General Cigar cigar, concerning that they represent the majority of the premium cigars sold in the U.S. chances are that that must have happened somewhere along the line.

22

23

24

25

Q. But you testified today that you have not encountered any consumers who think that the genuine General Cigar Cohiba is the same as the Cuban Cohiba, is that correct?

1           A.       I have not encountered anyone who  
2       believed that. I haven't asked every single  
3       respondent, but everyone who's volunteered  
4       information.

5           Q.       Other than the market research that  
6       you've done with Fathom and with --

7           A.       Censydiam?

8           Q.       -- Censydiam, what other experience  
9       with premium cigars do you have, if any? Are you  
10      a user?

11          A.       No. I'm a reluctant user. Sometimes  
12      when you do the research you have to smoke a cigar.

13          Q.       Have you ever attended a trade show?

14          A.       No.

15          Q.       So is there any other experience with  
16      cigars you have other than this -- the research  
17      that you've done in the past 15 years -- or not  
18      the past 15 years, but for 15 years?

19          A.       No.

20          Q.       I'd like to go back to Exhibit 12,  
21      which is there.

22          A.       The questionnaire?

23          Q.       Uh-hum.

24          A.       Okay. This is tough, because I didn't  
25      make this -- we reviewed it, but we didn't review

# C E R T I F I C A T E   O F   W I T N E S S

I, MICHAEL CULLEN, do hereby certify that I have read the foregoing transcript of my testimony, and further certify that it is a true and accurate record of my testimony (with the exception of the corrections listed below):

Page	Line	Correction
19	12 + 13	Add "USA" after "Consydiam"
45	11	Change "hid" to "do not"
59	2	Change "they" to "cigar smokers"
98	17	Change "Boulevard King" to "Bolivar"
101	17	Delete "by Stoners"
104	17	Insert "research" before "consumer"
107	25	Change "quantity" to "quantitative"
108	15	Change "managing" to "operations"
113	11	Change "Hallelujah" to "Kahlua"

MICHAEL CULLEN

Sworn and subscribed to before me this 3<sup>rd</sup> day of August, 2017.

Notary Public

My Commission expires:

Rena C. Fox  
Notary Public  
State of New Hampshire  
My Commission Expires  
December 16, 2020

1                   C E R T I F I C A T E   O F   W I T N E S S

2           I, MICHAEL CULLEN, do hereby certify that I have  
 3   read the foregoing transcript of my testimony, and  
 4   further certify that it is a true and accurate record  
 5   of my testimony (with the exception of the  
 6   corrections listed below):

7	Page	Line	Correction
8			
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16

17

18

MICHAEL CULLEN

19

Sworn and subscribed to before me this    day

20

of                   , 20\_\_.

21

22

Notary Public

23

My Commission expires:                   

24

25

1

## CERTIFICATE

2

I, Pamela J. Carle, Registered

3

Professional Reporter, do hereby certify that the

4

foregoing is a true and accurate transcript of my

5

stenographic notes of the deposition of MICHAEL

6

CULLEN, who was first duly sworn, taken at the

7

place and on the date hereinbefore set forth.

8

I further certify that I am neither

9

attorney nor counsel for, nor related to or

10

employed by any of the parties to the action in

11

which this deposition was taken, and further that

12

I am not a relative or employee of any attorney or

13

counsel employed in this case nor am I financially

14

interested in this action.

15

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

Date registered: June 6, 1995

-----		X
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----		X

PARTY OFFERING: PETITIONER

**Exhibit 1 to the TTAB Discovery Deposition Transcript of  
Michael Cullen, dated June 21, 2017**

# UNITED STATES DISTRICT COURT

for the

District of New Hampshire

Empresa Cubana del Tabaco, d.b.a. Cubatabaco

*Plaintiff*

v.

General Cigar Co., Inc. and Culbro Corp.

*Defendant*

) Pending in the US Patent and Trademark Office  
) Before the Trademark Trial and Appeal Board  
) In the Matter of Trademark Registration No. 1147309  
) for the mark COHIBA - Date Registered 2/17/1981  
) In the Matter of Trademark Registration No. 1898273  
) for the mark COHIBA - Date Registered 6/6/1995

## SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To:

Michael Cullen, 8 Pewter Ct., Nashua, NH 03063

*(Name of person to whom this subpoena is directed)*

☒ **Testimony:** YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

Place:

77 Central Street, Manchester, NH 03101

Date and Time:

06/13/2017 9:00 am

The deposition will be recorded by this method: stenographically

☐ **Production:** You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date:

4/27/17

CLERK OF COURT

OR



*Signature of Clerk or Deputy Clerk*

*Attorney's signature*

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)*

Empresa Cubana del Tabaco, d.b.a. Cubatabaco

, who issues or requests this subpoena, are:

Lawrence A. Vogelmann, 77 Central Street, Manchester, NH 03101; lvogelman@davenixonlaw.com; 603-669-7070

### Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

EXHIBIT

WIT:

Cullen

DATE:

6/21/17

Pamela Carle, RPR, CRR

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_.

☐ I served the subpoena by delivering a copy to the named individual as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the subpoena unexecuted because: \_\_\_\_\_  
\_\_\_\_\_.

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_  
\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.: \_\_\_\_\_

## Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

### (c) Place of Compliance.

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
  - (i) is a party or a party's officer; or
  - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

### (d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

### (e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) *Contempt.*

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309  
For the mark COHIBA  
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273  
For the mark COHIBA  
Date registered: June 6, 1995

-----X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
	:
Petitioner,	:
	:
v.	:
	:
GENERAL CIGAR CO., INC. and CULBRO	:
CORP.,	:
	:
Respondents.	:
-----X	

**NOTICE OF DEPOSITION**

TO ALL INTERESTED PARTIES:

PLEASE TAKE NOTICE that, pursuant to Rules 26, 30 and 45 of the Federal Rules of Civil Procedure and Title 37 of the Code of Federal Regulations Section 2.120, counsel for Petitioner will take the deposition upon oral examination of Michael Cullen in the above-captioned proceeding on Tuesday, June 13, 2017, beginning at the hour of 9:00 a.m. (EST), before a certified shorthand reporter or other person authorized to administer oaths. Said deposition shall be taken at the offices of Nixon Vogelman Barry Slawsky Simoneau Law Firm, 77 Central Street, Manchester, New Hampshire 03101. Said deposition shall be recorded



stenographically and continue from day to day until completed.

Respectfully submitted,

/Lindsey Frank/

Michael Krinsky

David B. Goldstein

Lindsey Frank

RABINOWITZ, BOUDIN, STANDARD,

KRINSKY & LIEBERMAN, P.C.

61 Broadway, 18<sup>th</sup> Floor

New York, New York 10006

(212) 254-1111

[lfrank@rbskl.com](mailto:lfrank@rbskl.com)

Lawrence A. Vogelmann

Nixon Vogelmann Barry Slawsky Simoneau

Law Firm

77 Central Street

Manchester, New Hampshire 03101

*Attorneys for Petitioner Empresa Cubana del  
Tabaco d.b.a. Cubatabaco*

**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing Notice of Deposition was served on the following by electronic mail this 27<sup>th</sup> day of April, 2017:

Andrew L. Deutsch  
Kerry A. O'Neill  
Rodrigues, Airina  
DLA Piper US LLP  
1251 Avenue of the Americas  
New York, NY 10020  
Telephone: (212) 335-4673  
[andrew.deutsch@dlapiper.com](mailto:andrew.deutsch@dlapiper.com)  
[kerry.o'neill@dlapiper.com](mailto:kerry.o'neill@dlapiper.com)  
[Airina.Rodrigues@dlapiper.com](mailto:Airina.Rodrigues@dlapiper.com)

**/Lindsey Frank/**

Lindsey Frank  
RABINOWITZ, BOUDIN, STANDARD, KRINSKY &  
LIEBERMAN, P.C.  
61 Broadway, 18th Floor  
New York, New York 10006

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

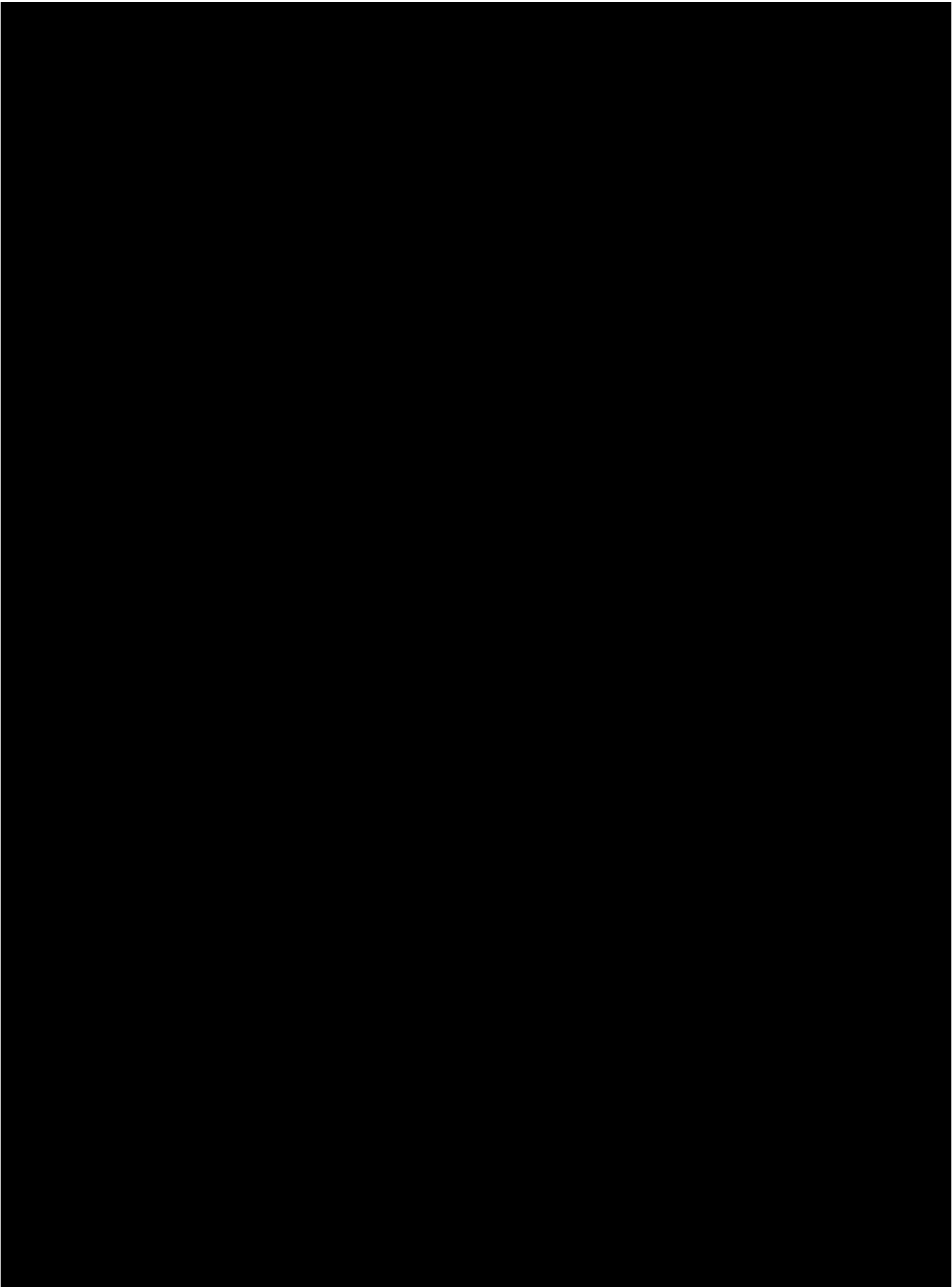
Date registered: June 6, 1995

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EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----	X	

PARTY OFFERING: PETITIONER

**Exhibit 2 to the TTAB Discovery Deposition Transcript of  
Michael Cullen, dated June 21, 2017**















**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

Date registered: June 6, 1995

-----	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----	X	

PARTY OFFERING: PETITIONER

**Exhibit 3 to the TTAB Discovery Deposition Transcript of  
Michael Cullen, dated June 21, 2017**

UNITED STATES DISTRICT COURT

for the

District of New Hampshire

Empresa Cubana del Tabaco, d.b.a. Cubatabaco

*Plaintiff*

v.

General Cigar Co., Inc. and Culbro Corp.

*Defendant*

) Pending in the US Patent and Trademark Office  
) Before the Trademark Trial and Appeal Board  
) In the Matter of Trademark Registration No. 1147309  
) for the mark COHIBA - Date Registered 2/17/1981  
) In the Matter of Trademark Registration No. 1898273  
) for the mark COHIBA - Date Registered 6/6/1995

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS  
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Michael Cullen Marketing Consultant, Inc. dba Fathom Research, 8 Pewter Ct., Nashua, NH 03063

*(Name of person to whom this subpoena is directed)*

☒ **Production:** YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material;

Please see attached Exhibit A.

Place: 77 Central Street, Manchester, NH 03101	Date and Time: 05/12/2017 10:00 am
---	---------------------------------------

☐ **Inspection of Premises:** YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:
--------	----------------

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 4/27/17

CLERK OF COURT

OR

*Signature of Clerk or Deputy Clerk*

*Attorney's signature*

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* \_\_\_\_\_  
Empresa Cubana del Tabaco, d.b.a. Cubatabaco, who issues or requests this subpoena, are:  
Lawrence A. Vogelmann, 77 Central Street, Manchester, NH 03101; lvogelman@davenixonlaw.com; 603-669-7070

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

EXHIBIT	3
WIT:	Cullen
DATE:	6/21/17
Pamela Carle, RPR, CRR	

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_.

☐ I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_

\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the subpoena unexecuted because: \_\_\_\_\_

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_  
\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.: \_\_\_\_\_

**Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)****(c) Place of Compliance.**

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
  - (i) is a party or a party's officer; or
  - (ii) is commanded to attend a trial and would not incur substantial expense

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

**(d) Protecting a Person Subject to a Subpoena; Enforcement.**

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

**(e) Duties in Responding to a Subpoena.**

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) *Contempt.*

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

## EXHIBIT A

### DEFINITIONS AND INSTRUCTIONS

#### DEFINITIONS

1. As used in this Subpoena, the term "General Cigar" refers to respondent General Cigar Co., Inc., any predecessor corporation or entities (including Culbro Corp.), any parent corporation, including, without limitation, Swedish Match AB or Scandinavian Tobacco Group, and any of the current or former principals, shareholders, directors, officers, employees, agents or representatives, and all Persons acting on its behalf.

2. The term "Person" shall mean any natural person or entity, including but not limited to any business, legal, governmental entity or association.

3. The term "Document" shall be given the meaning defined by Fed. R. Civ. P. 34 and as used herein shall include anything coming within the definition of "writings" and "recordings" as set forth in Federal Rule of Evidence Rule 1001(1) including, but not limited to any handwriting, typewriting, printing, photostating, photographing and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds or symbols, or combinations thereof. It includes the original, all copies thereof, whether signed or unsigned, and drafts used to prepare any document described herein. It includes all agreements, contracts, communications, correspondence, letters, telegrams, telexes, e-mails, messages, memoranda, notes, records, reports, books, summaries or other records of telephone conversations or interviews, summaries or other records of telephone conversations or interviews, summaries or other records of personal conversations, minutes or summaries of other records of meetings or conferences, summaries or other records of negotiations, other summaries, diaries, diary entries, calendars, appointment books, time records, instructions, work assignments, visitor records, forecasts, statistical data, statistical statements, financial statements, work sheets, work papers, drafts, graphs, maps, charts, tables, analytical records, consultants' reports, appraisals, bulletins, brochures, pamphlets, circulars, trade letters, press releases, notes, notices, marginal notations, notebooks, statements, lists, journals, advertising, recommendation, files, including personal files, printouts, compilations, tabulations, confirmations, envelopes or folders or similar containers, vouchers, analyses, studies, surveys, transcripts of hearings, transcripts of testimony, expense reports, microfilm, microfiche, articles, speeches, tape or disc recording, sound recordings, video recordings, film, tape, photographs, programs, data compilations from which information can be obtained (including matter used in data processing), and other printed, written, handwritten, typewritten, recorded, stenographic, computer-generated, computer-stored, or electronically stored matter, computer hard drives or magnetic tapes and all directories, files, and bits of electronic data stored thereon, of however and by whomever produced, prepared, reproduced, disseminated, or made.

4. Computer generated or stored Documents, including computer files or data, electronic mail, and information stored on hard disk which has been erased but is retrievable constitute "Documents" within the meaning of the above definition. An inspection of your computer system may be necessary to assure compliance with this Subpoena.

5. The term "Communication" means not only oral communications but also any

"Documents" (as such term is defined above), whether or not such document or the "information" contained therein was transmitted by its author to any other Person.

6. The terms "concerning," "relates to" or "thereto", "relating to" or "thereto" when used in connection with any act, action, activity, accounting, practice, process, occurrence, occasion, course of conduct, contractual provision or document, happening, relationship, scheme, conference, discussion, development, service, instance, incident, event, etc., means used or occurring or referred to in the preparation therefore, or in the course thereof, or as a consequence thereof, or referring thereto.

7. The connectives "and" and "or" shall be construed conjunctively or disjunctively as necessary to bring within the scope of the Interrogatory all responses that might otherwise be construed to be outside its scope.

### INSTRUCTIONS

1. If you object to any of this Subpoena, state in writing with specificity the grounds of your objections. Any ground not stated shall be waived. If you object to a particular portion of this Subpoena, you shall respond to so much of this Subpoena as to which there is no objection and state with specificity the grounds of the objection.

2. If you withhold any Communication, Document or part thereof that is responsive to any part of this Subpoena on grounds of attorney-client privilege, attorney work product doctrine or any other privilege, doctrine or basis whatsoever, state in writing with specificity:

- a. the date of the Document or Communication;
- b. the type, title and subject matter of the Document or Communication sufficient to assess whether the assertion of privilege is valid;
- c. the name of the Person or Persons who prepared or signed the Document or engaged in the Communication;
- d. the names and positions of any intended or actual recipients of the Document or Communication;
- e. each Person now in possession of the original or a copy of the Document or Communication;
- f. the particular privilege, doctrine or other basis for withholding the Document or Communication; and
- g. the grounds for applying such privilege, doctrine or other basis to the Document or Communication withheld.

3. Responses to this Subpoena shall include all Documents or Communications in your possession, custody or control, including any Documents or Communications in the possession, custody or control of any Persons subject to your control.

4. If a Request calls for information that is unavailable to you in the requested form, but is available in another form or can be obtained, in whole or in part, from information in your possession, so state and either supply the requested information in its available form or supply the other information from which the requested information can be obtained.

5. The fact that an investigation is continuing or that discovery is incomplete shall not be a justification for failing to respond to this Subpoena based on the knowledge or information that you possess at the time you respond to this Subpoena. If an investigation is continuing or discovery is not complete with respect to the matter inquired into by any Request, so state in your response to that Request.

6. If you incorporate by reference facts contained in other Documents, you shall identify such Documents and attach to the responses complete copies thereof.

7. If you assert that any Document or Communication that is responsive to this Subpoena has been lost or destroyed, or is otherwise no longer in your custody or control, you must set forth the contents of said Document or Communication, the location of any copies of said Document or Communication, the date of such destruction, the Person authorizing such destruction and the Person disposing of the Document or Communication.

8. If you cannot respond fully to a Request after exercising due diligence to secure the information requested, or do not have information responsive to any part of a Request, you must so state and describe in full your efforts to obtain the information requested, and respond to the Request to the fullest extent possible. If a qualified response to a Request must be given, you shall respond to the Request as directly and fully as possible and state fully the reason that such qualification is necessary.

9. If the identity of a Document responsive to a Request is not known, then that lack of knowledge must be specifically indicated in the response. If any information requested is not in your possession, but is known or believed to be in the possession of another Person, then identify that Person and state the basis of your belief or knowledge that the requested information is in such Person's possession.

10. When a Request does not specifically request a particular fact, Document or Communication, but such fact, Document or Communication is necessary to make the response comprehensible, complete or not misleading, the Request should be deemed to include a specific request for that fact, Document or Communication.

11. All Documents are to be produced as they are kept in the ordinary course of business so that one can ascertain the files in which they were located, their relative order in the files and how the files were maintained.

12. If, in responding to any of the Requests, you encounter any ambiguity in construing either the Request or a definition or instruction relevant to it, set forth the matter deemed ambiguous and the construction selected or used in responding to the Request.

13. Unless otherwise specified, the time period covered by this Subpoena is from January 1, 2003 through the present.



## **DOCUMENT REQUESTS**

### **REQUEST NO. 01:**

All Documents and Communications related to Michael Cullen Marketing Consultant, Inc. dba Fathom Research's work in 2007 to 2008 in connection with market research undertaken for General Cigar or Swedish Match concerning premium cigars, including, without limitation, any segmentation study and including, without limitation, any memoranda, analyses, emails, transcripts of interviews or focus groups, underlying data, questionnaires, verbatim responses, descriptions of methodologies used, or other Documents related to the same.

### **REQUEST NO. 2:**

All Documents and Communications, including, without limitation, any memoranda, analyses, emails or other Documents or Communications, concerning General Cigar's or the Cuban COHIBA cigar product(s) and COHIBA brand(s), whether or not COHIBA was the subject of the work.

### **REQUEST NO. 3:**

All Documents and Communications related to Cuban cigar product(s) and brand(s) and that were obtained or created during the course of Michael Cullen Marketing Consultant, Inc. dba Fathom Research's work on the General Cigar, Swedish Match or Insight Express accounts.

#### **Please note:**

Petitioner does not seek any billing records.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

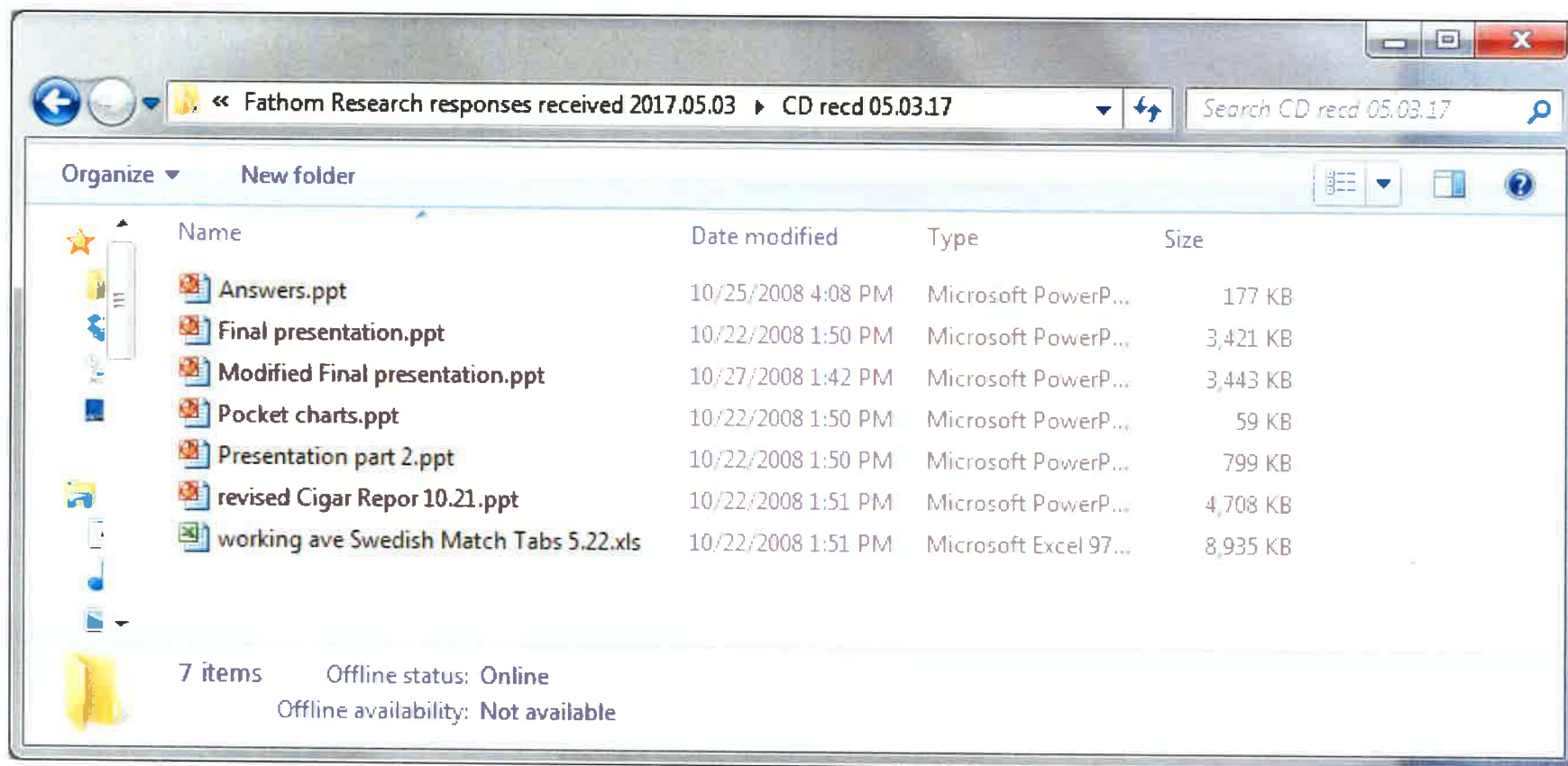
For the mark COHIBA

Date registered: June 6, 1995

-----	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----	X	

PARTY OFFERING: PETITIONER

**Exhibit 4 to the TTAB Discovery Deposition Transcript of  
Michael Cullen, dated June 21, 2017**



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

Date registered: June 6, 1995

-----	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----	X	

PARTY OFFERING: PETITIONER

**Exhibit 5 to the TTAB Discovery Deposition Transcript of  
Michael Cullen, dated June 21, 2017**

Answers Properties

General Security Details Previous Versions

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Description	
Title	Slide 1
Subject	
Tags	
Categories	
Comments	
Origin	
Authors	Michael Cullen
Last saved by	Michael Cullen
Revision number	11
Version number	
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Company	Michael Cullen Marketing Consultant Inc.
Manager	
Content created	10/25/2008 7:34 AM
Date last saved	10/25/2008 4:08 PM
Last printed	
Total editing time	08:33:24
Content	

[Remove Properties and Personal Information](#)

OK Cancel Apply

EXHIBIT 5  
WIT: Cullen  
DATE: 6/21/17  
Pamela Carle, RPR, CRR

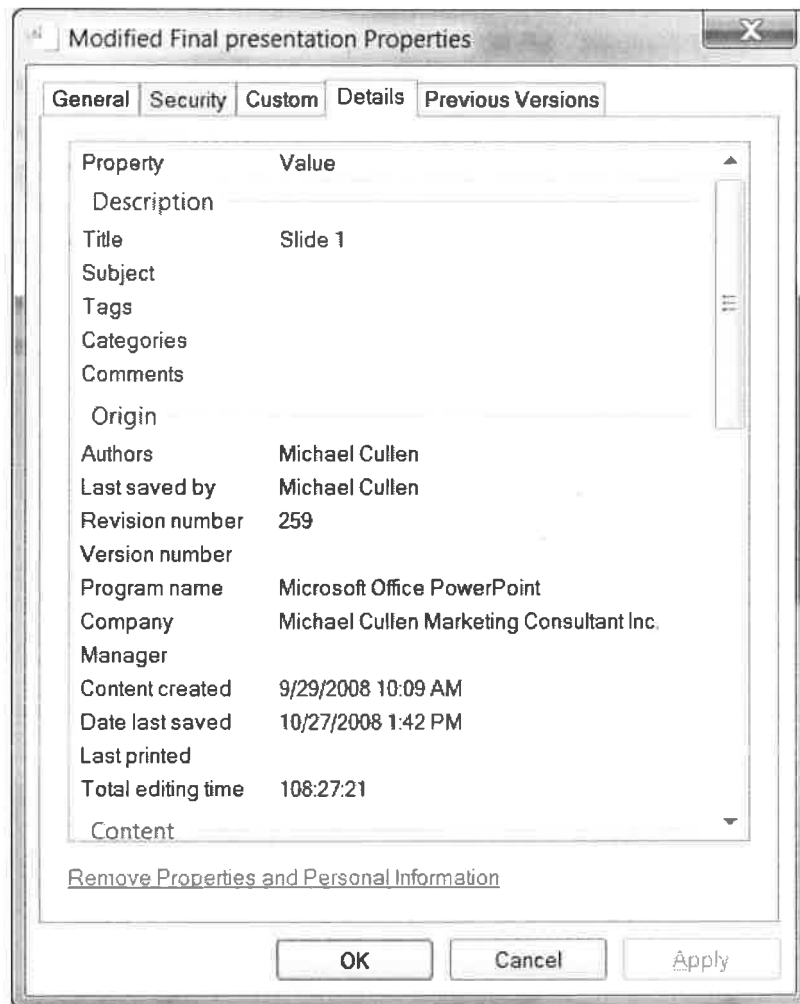
Final presentation Properties

General Security Custom Details Previous Versions

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Description	
Title	Slide 1
Subject	
Tags	
Categories	Add a category
Comments	
Origin	
Authors	Michael Cullen
Last saved by	Michael Cullen
Revision number	249
Version number	
Program name	Microsoft Office PowerPoint
Company	Michael Cullen Marketing Consultant Inc.
Manager	
Content created	9/29/2008 10:09 AM
Date last saved	10/22/2008 1:25 PM
Last printed	
Total editing time	107:47:54
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[Remove Properties and Personal Information](#)

OK Cancel Apply



**Pocket charts Properties**

General Security Custom Details Previous Versions

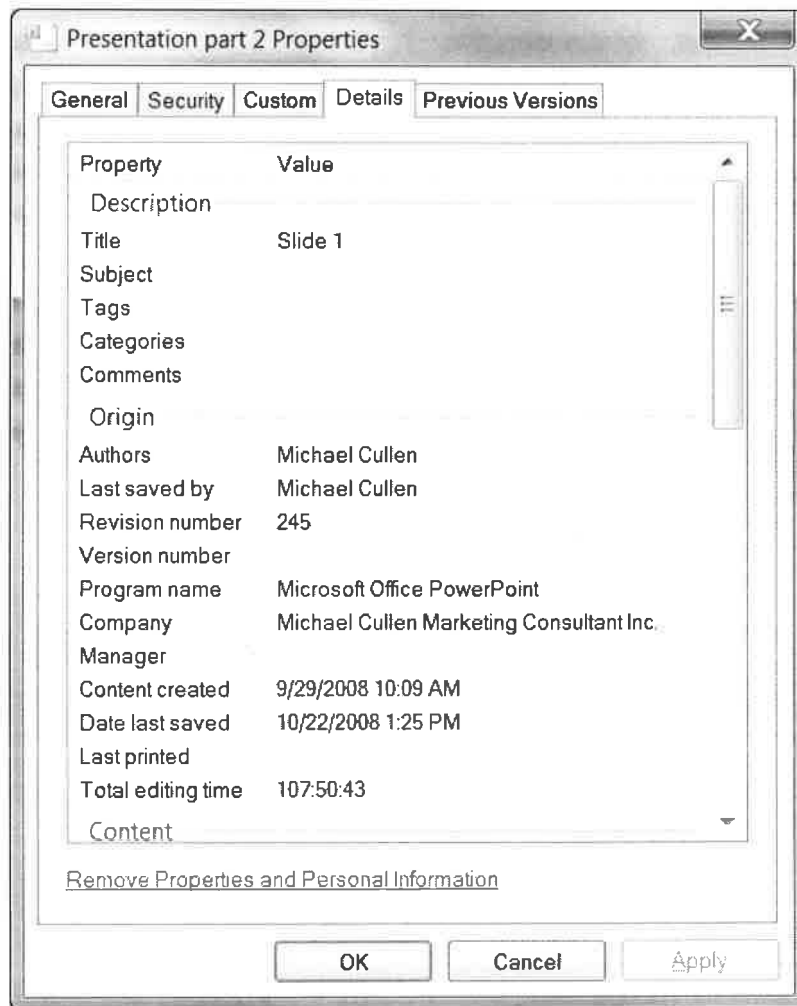
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Title	Slide 1
Subject	Specify the subject
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Origin	
Authors	Michael Cullen
Last saved by	Michael Cullen
Revision number	73
Version number	
Program name	Microsoft Office PowerPoint
Company	Michael Cullen Marketing Consultant Inc.
Manager	
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Total editing time	51:42:05

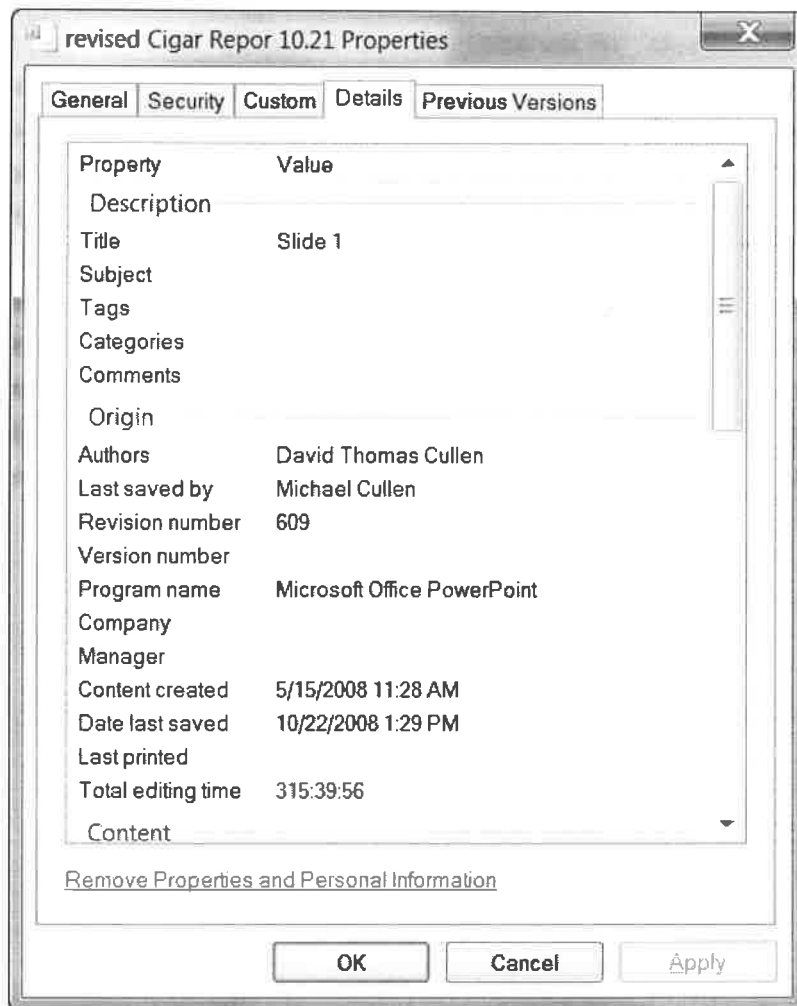
Content

[Remove Properties and Personal Information](#)

OK Cancel Apply







working ave Swedish Match Tabs 5.22 Properties

General Security Custom Details Previous Versions

Property	Value
Description	
Title	
Subject	Specify the subject
Tags	
Categories	
Comments	
Origin	
Authors	Heather
Last saved by	michael cullen
Revision number	
Version number	
Program name	
Company	
Manager	
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Date last saved	10/20/2008 9:36 PM
Last printed	
Content	
Content status	

[Remove Properties and Personal Information](#)

OK Cancel Apply

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

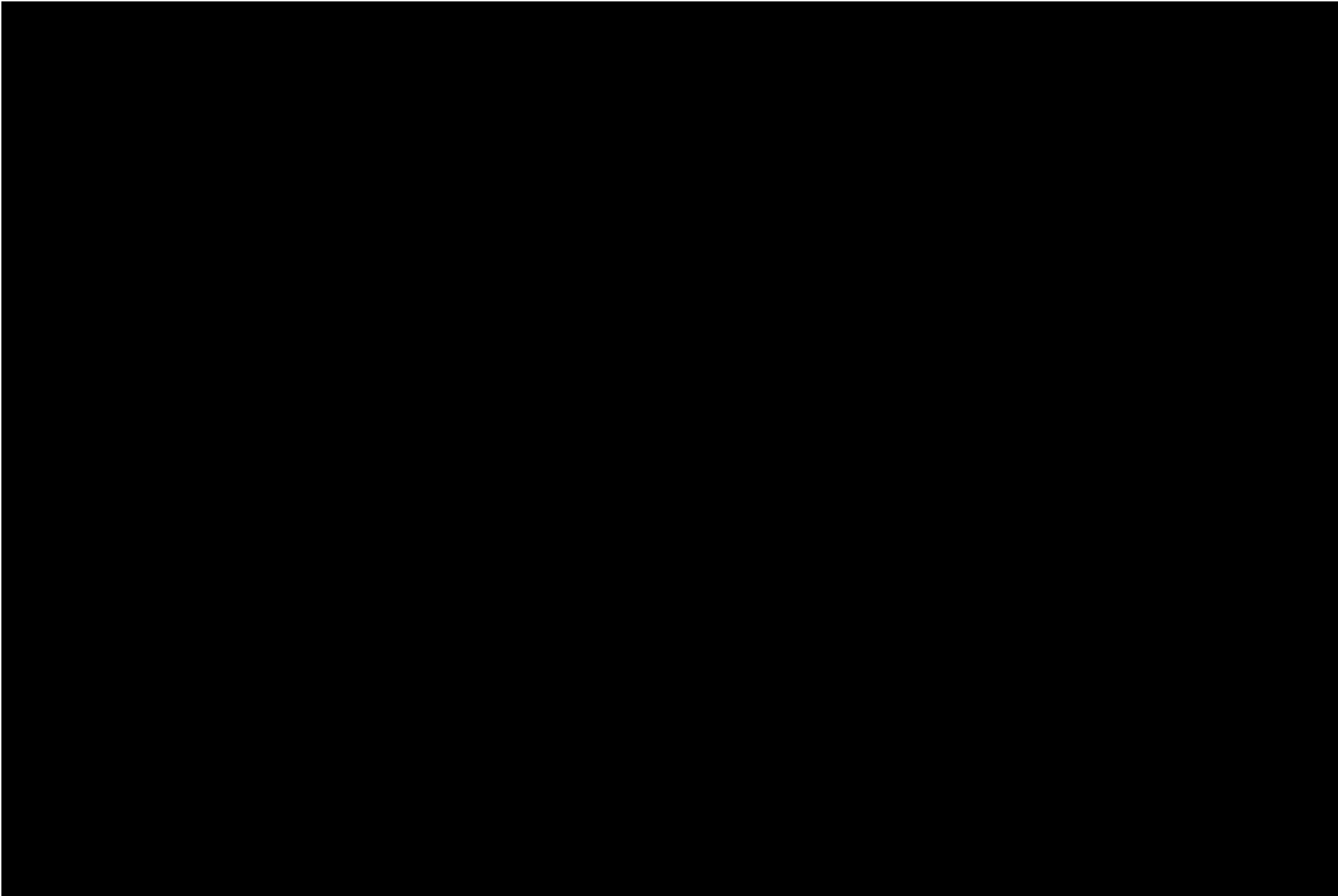
For the mark COHIBA

Date registered: June 6, 1995

-----	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----	X	

PARTY OFFERING: PETITIONER

**Exhibit 6 to the TTAB Discovery Deposition Transcript of  
Michael Cullen, dated June 21, 2017**

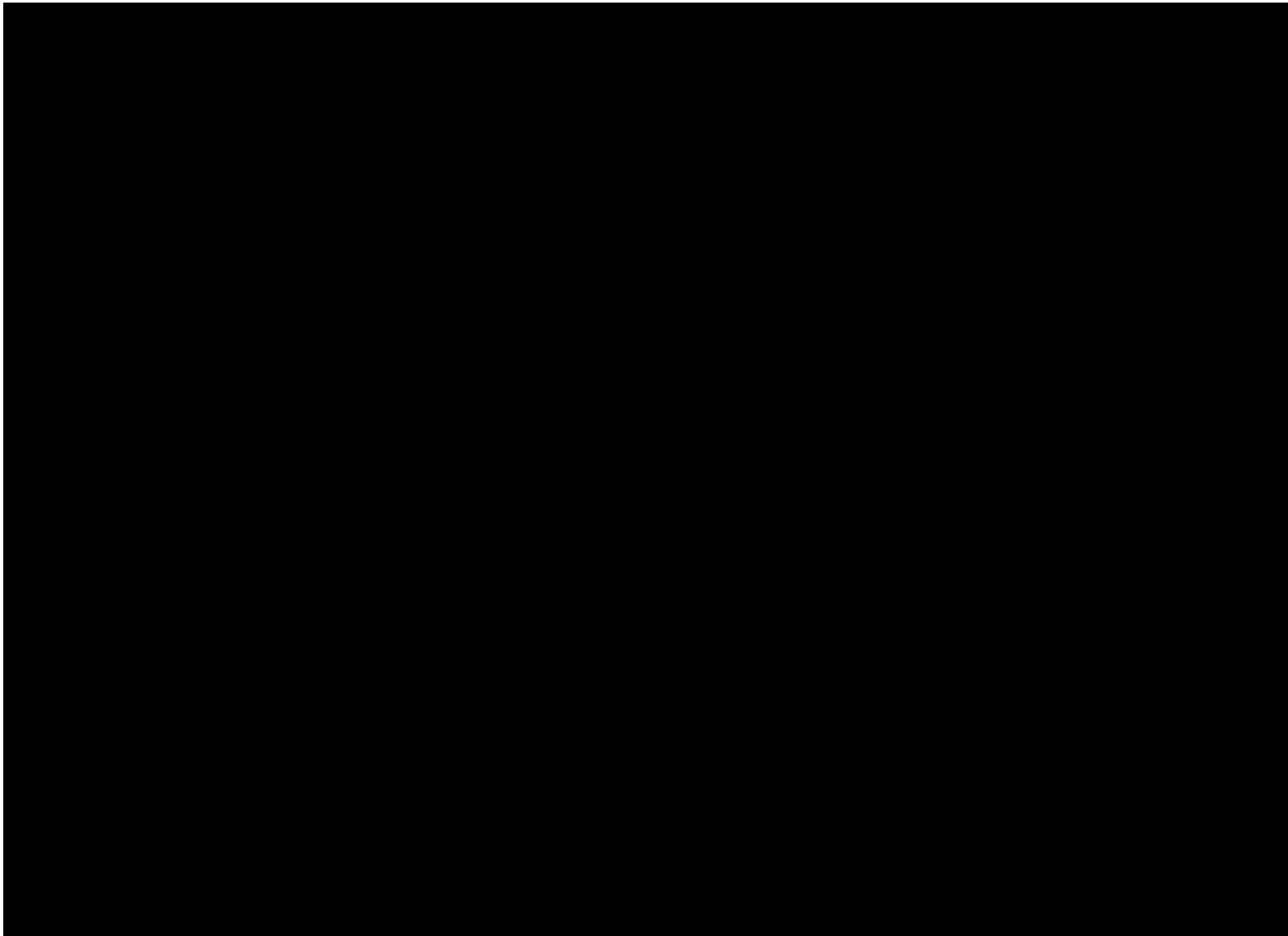


Confidential - Attorney's Eyes Only (Trade Secret/Commercially Sensitive)

EXHIBIT	6
WIT:	Colleen
DATE:	6/21/17
Pamela Carle, RPR, CRR	

FR0000100











**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

Date registered: June 6, 1995

-----		X
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----		X

PARTY OFFERING: PETITIONER

**Exhibit 7 to the TTAB Discovery Deposition Transcript of  
Michael Cullen, dated June 21, 2017**

EXHIBIT 7  
WIT: Cullen  
DATE: 6/21/17  
Pamela Carle, RPR, CRR

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

Date registered: June 6, 1995

-----	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----	X	

PARTY OFFERING: PETITIONER

**Exhibit 8 to the TTAB Discovery Deposition Transcript of  
Michael Cullen, dated June 21, 2017**

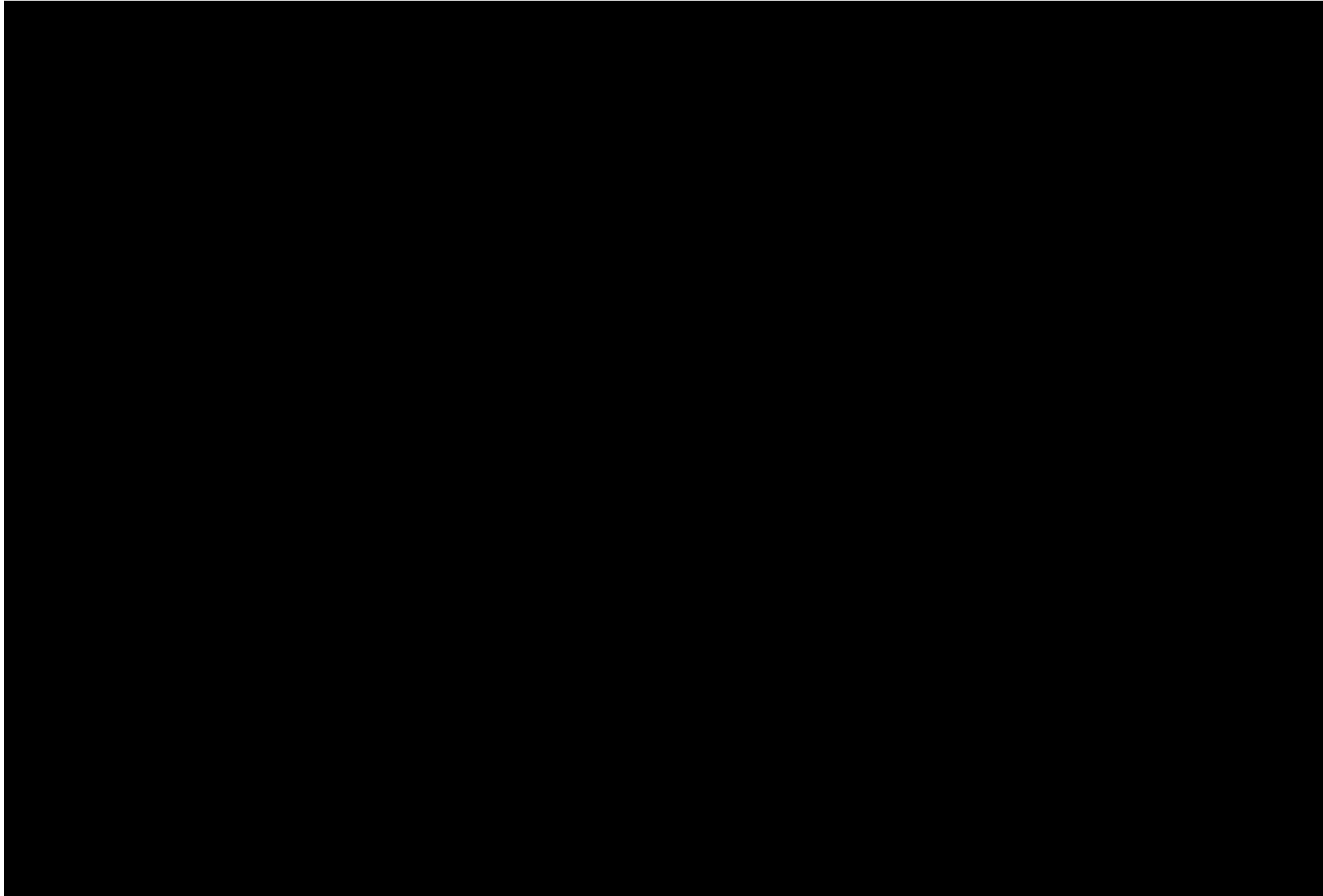


EXHIBIT 8  
WIT: Cullen  
DATE: 6/21/17  
Pamela Carle, RPR, CRR

31

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

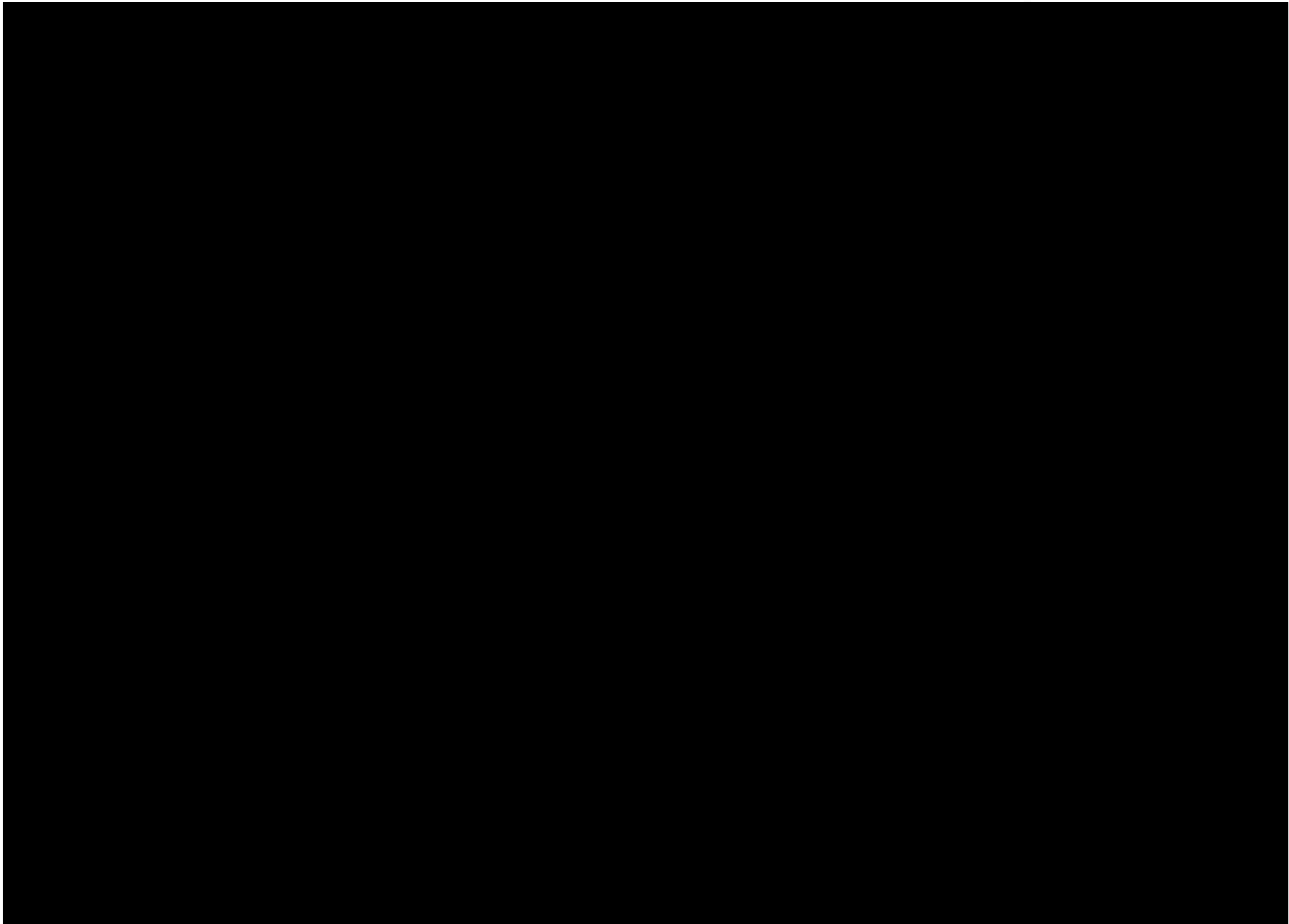
For the mark COHIBA

Date registered: June 6, 1995

-----		X
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----		X

PARTY OFFERING: PETITIONER

**Exhibit 9 to the TTAB Discovery Deposition Transcript of  
Michael Cullen, dated June 21, 2017**



Confidential - Attorney's Eyes Only (Trade Secret/Commercially Sensitive)

EXHIBIT	9
WIT:	Collen
DATE:	6/21/17
Pamela Carle, RPR, CRR	

FR0000086

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

Date registered: June 6, 1995

-----	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----	X	

PARTY OFFERING: PETITIONER

**Exhibit 10 to the TTAB Discovery Deposition Transcript of  
Michael Cullen, dated June 21, 2017**



Confidential - Attorney's Eyes Only (Trade Secret/Commercially Sensitive)

EXHIBIT	10
WIT:	Collen
DATE:	6/21/17
Pamela Carle, RPR, CRR	

FR0000121

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

Date registered: June 6, 1995

-----	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----	X	

PARTY OFFERING: PETITIONER

**Exhibit 11 to the TTAB Discovery Deposition Transcript of  
Michael Cullen, dated June 21, 2017**



EXHIBIT	11
WIT:	Collen
DATE:	6/21/17
Pamela Carle, RPR, CRR	

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309  
For the mark COHIBA  
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273  
For the mark COHIBA  
Date registered: June 6, 1995

-----	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----	X	

PARTY OFFERING: PETITIONER

**Exhibit 12 to the TTAB Discovery Deposition Transcript of  
Michael Cullen, dated June 21, 2017**

Thank you for choosing **InsightExpress™** for your marketing and research needs. This Workbook contains the results of your study.

Depending on which version you selected for export, the results are either stored on one worksheet, or each question on a separate Worksheet.

To move between questions, select the appropriate tab below. We suggest you begin by selecting the first tab below--your first question.

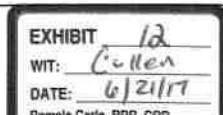
To print your results, select File | Print and select "Entire Workbook."

**User account:** SwedishMatch  
**Date Requested:** 3/30/17 4:28 PM  
**Survey ID:** 131566

**Survey Name:** Premium Cigar Segmentation 2008  
**Target Completes:** 1150  
**Completes:** 1151  
Custom (please call for availability and pricing)  
**Target Audience:**  
**Survey Status:** Completed  
**Questions:** 121  
**Survey Created:** 4/2/2008 2:48:07 PM  
**Survey Launched:** 4/8/2008 3:35:09 PM  
**Last View:** 4/23/2008 9:33:53 PM

#### Questions (click to view)

1)	UserID
	Q121
2)	UserID
3)	UserID
4)	Thanks for taking the time to participate in our survey. It should take no more than a few minutes to complete. All of your responses will be kept strictly confidential and will only be used for research purposes. Thank you in advance for your thoughtful input. Please indicate your age.
5)	Please indicate your gender.
6)	Do you regularly use hand ro'led premium cigars? (usually priced over \$2 for a large cigar / over \$1 for a small cigar)
7)	How many cigars do you smoke in an average month?
8)	Which of the following brands of cigars have you heard of? You may click on the cigar name to see the image of the cigar band, and click the x in the image window to close the image. Throughout the survey if you wish to see the cigar band again you can click on the highlighted cigar name.
9)	Regarding the following cigars you have heard of, which of these statements applies to your experience? #surveytable{width: 800px;}.GridColumnLabel{width: 500px; vertical-align:bottom;}
10)	Of the following brands that you are aware of, please rank your top preferred cigars in order from 1 to with one being the cigar you prefer the most, 2 being the one that you would prefer second and so forth all the way up to .
11)	Please think about what smoking a cigar means to you. In the list below, you will find a number of statements that other cigar smokers have made with respect to smoking cigars. Please respond by deciding how strongly you agree or disagree with each statement.
12)	Below are a number of statements made by other cigar smokers about the ways in which they handle things that deal with cigar smoking, and what they pay attention to while buying cigars. Please respond by deciding how strongly you agree or disagree with each statement.



13)	Below are a number of statements made by other cigar smokers about the ways in which they handle things that deal with cigar smoking, and what they pay attention to while buying cigars. Please respond by deciding how strongly you agree or disagree with each statement.
14)	Below you will find a list of occasions. Which of these would you consider occasions in which you enjoy having a cigar? Please respond by deciding how strongly you agree or disagree with each statement.
16)	We need a priority script written for three brands: Opus (position 63) Helix (position 13) Helix Remix (position 16) Havana Honeys (position 7) The above 3 qualify if they are users or purchasers (Q9_X>0), everyone
17)	Brand 2
18)	Brand 3
19)	Brand 4
22)	, Body
23)	, Length
24)	, Thickness
25)	, Price
27)	Thinking of the cigar which of the following attributes best describes the cigar? (Please select one for each row)
30)	, Body
31)	, Length
32)	, Thickness
33)	, Price
35)	Thinking of the cigar which of the following attributes best describes the cigar? (Please select one for each row)
38)	, Body
39)	, Length
40)	, Thickness
41)	, Price
43)	Thinking of the cigar which of the following attributes best describes the cigar? (Please select one for each row)
46)	, Body
47)	, Length
48)	, Thickness
49)	, Price
51)	Thinking of the cigar which of the following attributes best describes the cigar? (Please select one for each row)
53)	How many occasions in an average month do you smoke a cigar?
54)	Thinking about the occasions which you select a cigar to smoke each month, please distribute those occasions across the following.
55)	For each occasion that you indicated selecting cigars, please indicate the aspects or qualities of the cigar or cigar experience that are important to you for each type of occasion (check all that apply) #SurveyTable {width:800px;}.GridColumnLabel {width: 650px;}
56)	For each occasion that you indicated selecting cigars, please indicate the aspects or qualities of the cigar or cigar experience that are important to you for each type of occasion (check all that apply) #SurveyTable {width:800px;}.GridColumnLabel {width: 650px;}
57)	For each occasion that you indicated selecting cigars, please indicate the aspects or qualities of the cigar or cigar experience that are important to you for each type of occasion (check all that apply) #SurveyTable {width:800px;}.GridColumnLabel {width: 650px;}
58)	In terms of the quality of a cigar, please rank the following countries of origin on a scale from 1 to 7 with 1 being the country of origin with the highest quality cigars, 2 being the country of origin with the second highest
59)	When purchasing cigars do you purchase cigars priced...
60)	When purchasing cigars do you purchase cigars by the...
61)	Where do you commonly purchase cigars? Please indicate % of cigar purchases 0% to 100%

[illegible]

100) Conjoint Task  
101) Conjoint Task  
102) Conjoint Task  
103) Conjoint Task  
104) Conjoint Task  
105) Conjoint Task  
106) Conjoint Task  
107) Conjoint Task  
108) Conjoint Task  
109) Conjoint Task  
110) Conjoint Task  
111) Conjoint Task  
112) Conjoint Task  
113) After carefully  
114) After carefully  
115) After carefully  
116) After carefully  
117) After carefully  
120) Which of the  
121) Uploaded



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

Date registered: June 6, 1995

-----	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----	X	

PARTY OFFERING: PETITIONER

**Exhibit 13 to the TTAB Discovery Deposition Transcript of  
Michael Cullen, dated June 21, 2017**

EXHIBIT	13
WIT:	Cullen
DATE:	6/21/17
Pamela Carle, RPR, CRR	

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

Date registered: June 6, 1995

	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
	X	

PARTY OFFERING: PETITIONER

**Exhibit 15 to the TTAB Discovery Deposition Transcript of  
Michael Cullen, dated June 21, 2017**

EXHIBIT 15  
WIT: Cullen  
DATE: 6/21/17  
Pamela Carle, RPR, CRR

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

Date registered: June 6, 1995

-----	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----	X	

PARTY DESIGNATIONS\*: Petitioner's Designations During Its Trial Period—Yellow or Pink  
Respondent's Designations During Its Trial Period—Green  
Petitioner's Designations During Its Rebuttal Period—Blue

**Designated TTAB Discovery Deposition Transcript of  
Michael Harris, dated September 14, 2017  
Part 1 of 6**

\* Designations made pursuant to the marking and filing procedure the Board has previously approved, TTABVUE Nos. 165, 157, 138, 137, 135 and 132.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Trademark                    )  
Registration No. 1147300 for                    )  
the mark COHIBA,                                )  
  )  
Date registered 2/17/81,                        )  
  )  
AND   )  
  )  
In the matter of the Trademark                )  
Registration No. 1898273 for                    )  
the mark COHIBA,                                )  
  )  
Date registered 6/6/95.                         )  
  
EMPRESA CUBANA DEL TABACO,                    )  
d.b.a. CUBATABACO,                             )  
  )  
Petitioner,                                        )  
  )  
vs.   )  
  )  
GENERAL CIGAR CO., INC., and                 )  
CULBRO CORP.,                                    )  
  )  
Respondents.                                     )

CONFIDENTIAL - ATTORNEYS' EYES ONLY  
THE DEPOSITION OF MICHAEL HARRIS  
Taken on behalf of Petitioner  
September 14, 2017

Jo Ann Sturm, CSR, CCR, RPR

STURM REPORTING SERVICES, INC.  
2144 Gray Avenue  
St. Louis, MO 63117  
(314) 780-2816

Sturm Reporting Services, Inc.

314.780.2816

1

2

## I N D E X O F E X A M I N A T I O N

3

4

## DEPONENT MICHAEL HARRIS

5

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10

## I N D E X O F E X H I B I T S

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1       IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
2                               BEFORE THE  
3       TRADEMARK TRIAL AND APPEAL BOARD

4  
5       In the matter of Trademark       )  
6       Registration No. 1147300 for       )  
7       the mark COHIBA,                )  
8                                        )  
9       Date registered 2/17/81,        )  
10                                       )  
11       and                                )  
12                                        )  
13       In the matter of the Trademark   )  
14       Registration No. 1898273 for       )  
15       the mark COHIBA,                )  
16                                        )  
17       Date registered 6/6/95.         )  
18                                        )

19       -----  
20       EMPRESA CUBANA DEL TABACO,       )  
21       d.b.a. CUBATABACO,               )  
22                                        )  
23       Petitioner,                        )  
24                                        )  
25       vs.                                )  
26                                        )  
27       GENERAL CIGAR CO., INC., and     )  
28       CULBRO CORP.,                    )  
29                                        )  
30       Respondents.                     )

31       THE DEPOSITION OF MICHAEL HARRIS,  
32       produced, sworn, and examined on behalf of the  
33       Petitioner, on Thursday, September 14, 2017, between  
34       the hours of 9:11 a.m. and 5:34 p.m. on that day, at  
35       the law offices of Spencer, Fane, Britt & Browne, LLP,  
36       1 North Brentwood, Suite 1000, St. Louis, Missouri  
37       63105, before JO ANN STURM, an Illinois Certified  
38       Shorthand Reporter and a Certified Court Reporter  
39       within and for the County of St. Louis, State of  
40       Missouri.

41

42

1

## A P P E A R A N C E S

2

The Petitioner was represented by Mr. Lindsey Frank of the law firm of Rabinowitz, Boudin, Standard, Krinsky & Lieberman, P.C., 61 Broadway, 18th Floor, New York, NY 10006.

4

5

The Respondent was represented by Mr. Andrew L. Deutsch of the law firm of DLA Piper, 2000 Avenue of the Stars, Suite 400, North Tower, Los Angeles CA 90067.

6

7

Present for the Witness: Mr. Joshua M. Avigad of the law firm of Avigad Law, LLC, 225 S. Meramec, Suite 1021, St. Louis, MO 63105.

8

9

10

11

12

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24

25

1 \* \* \* \* \*

2 MR. DEUTSCH: We're going on the record in  
3 the absence of the witness and the witness's counsel  
4 to record an agreement which I have entered on behalf  
5 of General Cigar with counsel, Mr. Frank, on behalf of  
6 Cubatabaco regarding use of certain confidential  
7 attorneys' eyes only trade secret commercially  
8 sensitive designated documents, documents that have  
9 been so designated in General Cigar's production.

10 Under the standard protective order, which  
11 was entered here, there would have to be some  
12 procedures that would need to be followed to show  
13 those to the witness. It's not clear the witness  
14 would qualify, but we were requested by counsel for  
15 Cubatabaco to show certain such documents to Mr.  
16 Harris in the course of his deposition, and I'm  
17 putting on the record what we have agreed to.

18 We have agreed to permit Mr. Harris to see  
19 and testify as to any such designated documents which  
20 on their face were prepared by a Moosylvania employee  
21 or sent to one or more Moosylvania employees. We  
22 reserve the right to object to questions with respect  
23 to such documents, but the disclosure will not be an  
24 issue.

25 In addition, we were asked by counsel for

1 Cubatabaco for our consent to show two other documents  
2 to the witness which we have identified as originating  
3 with Moosylvania, and we granted that consent. That's  
4 the limit of what we have consented with respect to  
5 disclosure of the confidential attorney's eyes only  
6 trade secret commercially sensitive documents to this  
7 witness.

8 MR. FRANK: Do you want to put on the Bates  
9 numbers of the two additional documents? The Bates  
10 numbers for the two documents for which respondent has  
11 consented to disclosure to Mr. Harris are GENC0018813  
12 to GENC0018902. One document. The other is  
13 Bates-numbered GENC0003729 to GENC0003756.

14 (The witness and counsel have entered  
15 the room.)

16 \* \* \* \* \*

17 MICHAEL HARRIS,  
18 of lawful age, being produced, sworn, and examined on  
19 the part of the Petitioner, and after responding "I  
20 do" to the oath administered by the court reporter,  
21 deposes and says:

22 \* \* \*

23 DIRECT EXAMINATION

24 BY MR. FRANK

25 Q Good morning. My name is Lindsey Frank.

1 I'm from the law firm of Rabinowitz, Boudin, Standard,  
2 Krinsky & Lieberman, counsel for petitioner in this  
3 matter. Here today also is Andrew Deutsch. He's from  
4 DLA Piper, and he's here representing the respondent,  
5 General Cigar Company, Incorporated.

6 Mr. Harris, you have counsel present here  
7 representing you today?

8 A I do.

9 MR. FRANK: Do you want to identify yourself  
10 for the record?

11 MR. AVIGAD: Josh Avigad of Avigad Law, LLC.

12 BY MR. FRANK

13 Q So I'll be asking you a series of questions  
14 today. The reporter here will transcribe the  
15 questions and your answers. If any of the questions  
16 are not clear to you, please let me know and I'll try  
17 to clarify them.

18 A Great.

19 Q Please note that the reporter needs you to  
20 answer with words, so speak out loud your responses,  
21 try not to --

22 A Understood, understood.

23 (Exhibit 1 was marked for  
24 identification.)

25

1 BY MR. FRANK

2 Q Exhibit 1. This is notice of deposition and  
3 the subpoena in this matter.

4 MR. DEUTSCH: Let me just ask, are you going  
5 to do these as Harris 1?

6 MR. FRANK: Harris 1.

7 MR. DEUTSCH: Harris 1.

8 BY MR. FRANK

9 Q Do you want to review the documents, please.  
10 Are you appearing here today pursuant to this  
11 deposition -- to this subpoena --

12 A Yes, I am.

13 Q -- is that correct?

14 Is there any reason you cannot testify  
15 truthfully today?

16 A No.

17 Q Are you currently taking any medication that  
18 would affect your ability to testify fully and  
19 truthfully today?

20 A No.

21 Q Are you currently subject to any medical  
22 condition that would affect your ability to testify  
23 truthfully today?

24 A No.

25 Q Please describe the schools you attended

1 starting with your secondary education.

2 A I attended the University of Colorado at  
3 Boulder. I have two degrees. My first degree is in  
4 broadcast news. My second degree is called  
5 International Spanish for the Professions.

6 Q And is there any concentration during --  
7 during your college/university?

8 A Just the two -- within the two degrees that  
9 I had.

10 Q Is there any other graduate level education  
11 that you -- graduate level educational course that  
12 you've taken?

13 A No, there is not.

14 Q Since completing your education, what  
15 employments have you held?

16 A Sure. My first was a small marketing  
17 company called Rainbow Rewards in Denver, Colorado.  
18 From there I went to an advertising agency called  
19 Crispin Porter & Bogusky. From there I went to  
20 another advertising agency called the Integer Group.  
21 And six years ago I came to St. Louis to work for  
22 Moosylvania, another advertising agency.

23 Q Can you please describe how long you were at  
24 each of these -- how long you were with each of these  
25 employers and what your job entailed?



1           A     Sure. With Rainbow Rewards I was there  
2     approximately just over a year. I was an account  
3     manager on the sales side. At Crispin Porter &  
4     Bogusky I was a media planner planning media plans for  
5     companies such as Domino's, Best Buy, Jose Cuervo. At  
6     the Integer Group I was an account manager, worked on  
7     companies such as Johnson & Johnson. And then  
8     Moosylvania I'm the vice president of media and we do  
9     advertising, full service digital, traditional. I  
10    plan media for several of these clients, but also run  
11    a book of business on the account side.

12          Q     So what's your current title at Moosylvania?

13          A     Vice president of media.

14          Q     How long have you held that title?

15          A     Approximately four or five months.

16          Q     And prior --

17          A     Prior to that, I was the director of media,  
18    full -- so from my full five and a half years I've  
19    been the director of media. The last four or five  
20    months I've been the vice president of media.

21          Q     And was your first position at Moosylvania  
22    the director of media?

23          A     Yes, it was.

24          Q     And can you describe your responsibilities  
25    as director of media at Moosylvania?

1           A     Sure. So day to day I work with clients,  
2     planning media strategies. So that starts with how  
3     and who we will target, what media channels are  
4     appropriate for those brands and then also includes  
5     the execution of those media plans, trafficking  
6     assets, as well as the analytical reporting post  
7     campaign.

8           Q     Did your responsibilities change during the  
9     course of the time that you were director of media at  
10    Moosylvania?

11          A     So while I am the director of media, I did  
12    mention, as previously stated, I do run a book of  
13    business on the account side. So I am the -- as of  
14    four years ago the primary lead contact for certain  
15    clients within our business, including General Cigar.  
16    I also manage a business called Hungry Howie's, a  
17    pizza brand.

18          Q     And have those job responsibilities changed  
19    since becoming vice-president?

20          A     They have not.

21          Q     You said you were the primarily lead contact  
22    for General Cigar. When did you first become the  
23    primary lead contact for General Cigar?

24          A     It was approximately end of 2013, early  
25    2014. Prior to me, there was a different point of

1 contact. Her name is Julia Ahrens. She's now at a  
2 different agency here in St. Louis.

3 Q And prior to becoming the primary point of  
4 contact for General Cigar, did you work on the General  
5 Cigar account?

6 A I did.

7 Q When did you begin your work on the General  
8 Cigar account?

9 A Approximately January 2012.

10 Q As part of your professional  
11 responsibilities, do you engage in market research?

12 A There is some market research involved, yes.

13 Q For how many years have you engaged in  
14 market research?

15 A Well, since I've been there, I suppose.

16 Q And prior to that, did you engage in any  
17 market research?

18 A Can you define for me what you consider to  
19 be market research?

20 Q Well, how about you define it to me, what  
21 you consider market research.

22 A That's fair. We would look at what the  
23 competitors are doing in the marketplace, different  
24 advertising strategies that we see. You know, I think  
25 that would probably sum up the market research side.

1 Q Would you look also at what was -- apart  
2 from what competitors were doing what was happening in  
3 the market concerning the product?

4 A Sure. We look at trends in the marketplace.  
5 Certain companies might be using certain types of  
6 tobaccos from different countries. So, yes, we would  
7 consider that.

8 Q And speaking generally now, when did you  
9 first start engaging in market research as part of  
10 your professional work?

11 A So working on the brand, I would say since  
12 I've been working on the business.

13 Q But apart from General Cigar?

14 A Excuse me. So professionally speaking,  
15 since I've been in advertising I've been engaged in  
16 some level of market research for any and all clients  
17 I've worked on or had contact with in advertising.

18 Q How long would that be?

19 A I started in advertising around 2008, 2009,  
20 somewhere in there.

21 Q And what percentage of your work would you  
22 say is dedicated to market research, currently?

23 A I'm not sure. I'm not sure.

24 Q In the past, could you estimate?

25 A If you want me to put a percentage to it, I

1 would give you a range of, I don't know, 10 to  
2 25 percent of my job is involved in some level of  
3 research.

4 Q As part of your professional work, do you  
5 work on brand development?

6 A Sure.

7 Q How many years have you worked brand  
8 development?

9 A Probably the last six years at Moosylvania.  
10 Well, I would also include the Integer Group as well  
11 on the account side. So the last seven years or so.

12 Q And how would you define brand development?

13 A Well, taking a brand and actually building  
14 awareness of that brand within the marketplace,  
15 looking at different creative strategies for the  
16 brand, growing the brand from a sales perspective  
17 through the lens of marketing strategies.

18 Q What percentage of your work is currently  
19 dedicated to brand development?

20 A Approximately 10 to 25 percent.

21 Q And in the past?

22 A Same, 10 to 25 percent.

23 Q As part of your professional work, do you  
24 work on marketing strategies?

25 A Yes.

1 Q And how would you define marketing  
2 strategies?

3 A Well, I would use two different lenses  
4 actually. From the account management side we are the  
5 essential liaison representative of our clients when  
6 they're not in our office. So we represent their  
7 goals and objectives to build those marketing  
8 strategies. But on the media side, have a slightly  
9 different lens on how I would approach because now  
10 we're dealing with paid dollars. The media side --  
11 yeah, I'll leave it at that.

12 Q What would you do -- how is the media side  
13 different than the account management side?

14 A Well, I'm spending physical monies in  
15 different channels. I'm working with different  
16 vendors to execute media plans to extend the creative  
17 message that the marketing side or the account side  
18 actually develops and creates.

19 Q And what percentage of your work is  
20 currently dedicated to marketing strategies?

21 A Probably about 50 percent of what I do is in  
22 the marketing strategy side.

23 Q And how much in the past?

24 A Same.

25 Q And does any of this marketing work involve

1 social media?

2 A Yes. So in the media side, to be clear, not  
3 for General Cigar, paid media does not include social.  
4 For other clients, it does that I work on. But  
5 indirectly on the account management side for a  
6 company like General Cigar, yes, it would include  
7 social media from an organic strategy standpoint. So  
8 content creation that we post within their social  
9 channels. I have a team that generates and makes that  
10 content for our client.

11 Q Part of your marketing work, does this  
12 involve work in digital media?

13 A Yes, it does. So on the media side  
14 buying -- planning and buying the strategies to  
15 execute digital media. On the account side working,  
16 yes, also with digital media. Not for General Cigar.  
17 We do not place digital media for General Cigar. They  
18 had a buyer that worked out of New York named Bob  
19 Steinhilber who was their primary media point of  
20 contact.

21 Q How do you define digital media?

22 A Well, digital media is anything in the  
23 digital space that involves perhaps a website over a  
24 digital content, yeah.

25 Q Would it include social media?

1           A       I think you could take an umbrella approach  
2       to that, but I would actually delineate the two.

3           Q       Would it include the Internet?

4           A       Yes.

5           Q       And for how many years have you done work in  
6       social media?

7           A       Six years, approximately six years.

8           Q       And what percentage of your work would you  
9       say is dedicated to your marketing work in social  
10      media?

11          A       Well, I mean, again, I would include under  
12      the digital strategy side of what I do.   So it's going  
13      to be in the 25 percent range.   Somewhere in there.

14          Q       And how much in the past?

15          A       So it was zero prior to Moosylvania.   So for  
16      the last six years.

17          Q       And have you ever published any articles  
18      concerning marketing?

19          A       I've written a few blogs, yes.

20          Q       Where are those located?

21          A       Moosylvania, we have a blog section on our  
22      website.   Now, that was on our old website.   I don't  
23      know if they are published on our new website which  
24      was launched early this year.

25          Q       Have you published anywhere else other than



1 on Moosylvania's blog?

2 A To my knowledge, no.

3 Q Any other --

4 A I might have shared -- not published but  
5 shared marketing articles within social channels such  
6 as LinkedIn or Twitter and Facebook.

7 Q And what were those blogs about, do you  
8 remember?

9 A The last one that I wrote was specifically  
10 about digital banner ads, display advertising, and  
11 prior to that, I'm not sure.

12 Q Were they about social media, do you  
13 remember?

14 A I do not recall.

15 Q Have you ever published any articles or  
16 blogs or books about social media?

17 A I've never published a book, and, again, I'm  
18 not sure -- as I stated, I'm not sure if any of my  
19 blogs are on social media.

20 Q In order to prepare for the deposition today  
21 did you review anything in particular to refresh your  
22 memory about General Cigar or Cohiba?

23 A I read through email chains that were back  
24 and forth on the request that you guys had. I  
25 reviewed past work histories, specific employees were

1 at Moosylvania. But other than that, nothing else.

2 Q Did you speak to anyone from General Cigar?

3 A No, I have not.

4 Q Anyone from Swedish Match?

5 A I have not.

6 Q Anyone from Scandinavia Tobacco Group?

7 A No.

8 Q Did you speak to anyone from General Cigar's  
9 attorneys, DLA Piper?

10 A We had an initial phone call, Mr. Deutsch  
11 was on that call, right after I received the subpoena.  
12 And I do believe some of General Cigar's in-house  
13 counsel was on that call. I do not recall who  
14 exactly, but after that, no. After that single call.

15 Q And what was discussed on that call?

16 A We discussed what was in the subpoena, what  
17 this lawsuit actually was about. And at that point,  
18 Mr. Deutsch suggested, I don't know if suggested is a  
19 fair term, but said it might be a good idea for me to  
20 seek counsel, which is when I reached out to Josh.

21 Q Did you discuss anything else about the  
22 subpoena, anything in particular?

23 A I don't recall exact details on that call  
24 other than remembering that I needed to seek counsel  
25 afterwards.

1 Q Did you discuss any particular documents?

2 A Just the physical subpoenas that I received  
3 from the gentleman that dropped them off.

4 Q Did DLA Piper provide you with any documents  
5 prior to this deposition?

6 A I'm sorry, who is DLA Piper?

7 Q The General cigar's outside counsel?

8 A Did they provide me with any documentation,  
9 no, they have not.

10 Q Has General Cigar provided you any  
11 documentation prior to this deposition?

12 MR. DEUTSCH: Objection. They obviously  
13 have. Do you want to rephrase the question?

14 BY MR. FRANK

15 Q Did -- in order to prepare for this.

16 A In order to prepare for this, no, but  
17 overall there's constant transfer of documentation  
18 from a marketing perspective.

19 Q Has General Cigar's in-house counsel  
20 provided you with documents?

21 A No, they have not.

22 Q In preparation for this deposition?

23 A No, they have not.

24 MR. FRANK: Mark this as Exhibit 2.

25 (Exhibit 2 was marked for

1 identification.)

2 BY MR. FRANK

3 Q This is Bates number MS0009739 to MS0009741.  
4 Can you please identify this document?

5 A Yeah. So this was after receiving the  
6 subpoena. We did reach out to our client to let them  
7 know or ask what was going on. This is when we had a  
8 conference call established to -- Miss Warren, I  
9 presume, reached out to Mr. Deutsch and his team to  
10 set up the conference call.

11 Q Do you see on the first page it talks about  
12 a file available for download?

13 A That was my subpoena.

14 Q Is this a file that DLA Piper sent to you?

15 A I'm not sure what the -- I'm not sure what  
16 the download was. I remember the call -- I'm not  
17 sure.

18 Q Says here on the first page: "Checking on  
19 the status of the Cohiba documentation tied to  
20 Moosylvania that you were going to send me."

21 Does that help refresh your recollection?

22 A I don't recall specifics. I don't remember  
23 if -- I'm not sure what was sent.

24 Q Did General Cigar or its attorneys ever ask  
25 Moosylvania for documents related to this case?

1           A       Can you rephrase that question?

2           Q       Was there a --

3           A       Just repeat the question.   Excuse me.

4           Q       You can always ask the reporter to repeat  
5 the question.

6           THE WITNESS:   Can you repeat the question,  
7 please?

8                       (The reporter read the requested  
9 material.)

10          THE WITNESS:   I mean, to my knowledge, no.  
11 I mean, clearly there was a note here that says --  
12 okay.   Okay.   I do remember what this email was.   Can  
13 we backtrack onto this real quick before we answer the  
14 next question?

15   BY MR. FRANK

16          Q       Sure.

17          A       When we were on the call I remember  
18 Mr. Deutsch and his team say they had a file package  
19 or documentation that they did send through showcasing  
20 what they were reviewing.

21          Q       What did those documents include?

22          A       I mean, it would have been marketing  
23 documents, emails perhaps.   I don't recall exactly  
24 what was in there, but I do remember that they had  
25 some files that they were sharing.   In terms of

1 General Cigar's counsel requesting, going back to the  
2 second question going back to document --

3 Q First, are you still in possession of those  
4 documents?

5 A I mean, perhaps in my email.

6 Q We would request that you produce those  
7 documents after this deposition.

8 A Okay. Can I move on to the second question,  
9 please?

10 Q Yes.

11 A To my knowledge, no, General Cigar had never  
12 requested any information from me, yeah.

13 MR. FRANK: Mark this Exhibit 3.

14 (Exhibit 3 was marked for  
15 identification.)

16 BY MR. FRANK

17 Q Mark this as Exhibit 3. MS 0004176 to  
18 MS0004179. Can you please identify this document?

19 A Yes. At the time Steve Abbot who was the  
20 lead brand manager at General Cigar on the Cohiba  
21 brand, reached out late last year requesting any  
22 Cohiba assets that we had work on. He asked for them  
23 dating back, as you can see in the email, back to  
24 2003. I let him know we didn't have anything that  
25 goes that far back. So we provided him with marketing

1 materials that we had worked on.

2 Q Which documents were provided?

3 A Well, he asked for a sample of assets from  
4 social media, so we would have sent that through, as  
5 well as any promotional items. So that may have  
6 included print advertisements, it might have included  
7 any of the website work that we had done on the Cohiba  
8 brand.

9 Q Approximately how many documents were  
10 provided to General Cigar?

11 A I'm not sure. This was November of last  
12 year. I don't know how many was sent through in the  
13 specific request.

14 Q Do you know approximately how many?

15 A I do not know approximately how many.

16 Q Were all the files produced or a sample of  
17 them?

18 A Again, I'm not sure exactly what was sent  
19 through.

20 Q But an email chain asked for a  
21 representative sample; is that correct?

22 A Yeah, I believe. Let me read this really  
23 quick. He's talking about every Cohiba post. So I'm  
24 going to make the assumption that was specific to  
25 social media. Yes. I'll check on the social media

1 questioning. He asked how many social media posts  
2 that he wanted. He asked for a representative sample.  
3 So we would not have provided every single social post  
4 that we would have done for Cohiba in perpetuity. We  
5 would have provided him a sample.

6 Q Did you provide any strategic marketing  
7 documents?

8 A As I've stated, I'm not exactly sure what  
9 was provided.

10 Q How did you -- how do you select which files  
11 to produce?

12 A We would have pulled assets from our server  
13 under the Cohiba folder. I'm not exactly sure the  
14 exact process that was taken in November of last year.

15 Q Did you discuss with General Cigar and its  
16 attorneys how to select which samples you were going  
17 to produce?

18 A No. I never spoke to General Cigar's  
19 attorneys. This was all handled by Steve.

20 Q Did you talk to Steve Abbot about  
21 representative samples of the documents?

22 A Through email.

23 Q Only through email?

24 A Well, I'm not sure if a call happened  
25 between then and here, but from documentation I'm



1 looking at right now this was handled through email.

2 Q Do you have a copy of the documents that  
3 were provided to General Cigar in response to this  
4 request?

5 A I'm not sure. I can check.

6 Q Please check, and if you have a copy,  
7 produce those, please.

8 Can you describe the kind --

9 A Can I ask a clarity question? Do I need to  
10 be writing down what I need to provide or will this be  
11 requested to me post meeting?

12 Q I can provide it to you post meeting.

13 A I'm trying to set a clarification for who's  
14 responsible for what.

15 MR. AVIGAD: Don't worry about it. Just  
16 answer the question.

17 THE WITNESS: Understood.

18 BY MR. FRANK

19 Q Can you please describe the work of  
20 Moosylvania?

21 A So as I stated earlier we are a full service  
22 advertising agency. So we work on 360 programs both  
23 above the line and below the line. So that could  
24 include more traditional forms of media planning,  
25 television spots down to digital programs, website

1 builds, analytics, social media.

2 Q Can you provide a list of sample clients?

3 A Sure. We work across several different  
4 categories. We do work in the liquor, wine and beer  
5 category. Are you looking for specific clients?

6 Q Specific clients.

7 A Existing or ever?

8 Q A representative sample existing and in the  
9 past.

10 A We work with Sapporo Beer. We work with  
11 Bacardi. We work with General Cigar obviously. We  
12 work with Hungry Howie's.

13 Q Are any of these of comparable size and  
14 prominence to General Cigar?

15 A We do work with PayPal, which I consider  
16 much larger than General Cigar. Sapporo is a global  
17 brand. If we're talking about monetary, I would say  
18 most of our clients -- not most, but several of our  
19 clients are bigger than General Cigar.

20 Q How many employees does Moosylvania have,  
21 approximately?

22 A Between 30 and 40.

23 Q Does that include professional staff?

24 A I believe it does.

25 Q How many offices?

1           A       Well, that's a point of technicality. One  
2 office.

3           Q       Why do you say it's a point of technicality?

4           A       He has a place in Miami that we would use as  
5 a base when we worked on clients in the Florida  
6 market.

7           Q       You mentioned General Cigar. Is General  
8 Cigar a current client of Moosylvania's?

9           A       They are.

10          Q       How long has General Cigar been a client of  
11 Moosylvania?

12          A       Approximately six years.

13          Q       What does Moosylvania currently do for  
14 General Cigar, what work?

15          A       We are the lead strategy agency for General  
16 Cigar. We work, again, on 360 programs for them with  
17 the exception of media side that was handled by a  
18 separate arm, but we would create marketing platforms,  
19 creative assets, promotional ideas on behalf of  
20 several of the brands within the General Cigar  
21 portfolio.

22          Q       When you say 360 program, what does that  
23 mean?

24          A       So we won't just think about a specific  
25 channel, like retail, for example. We work on a

1 retail program plus a digital program, making sure  
2 that everything was fully integrated.

3 [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

10 Q But apart from contractually, substantively  
11 has the work changed?

12 A When I first started in 2012, we were only  
13 working on the CAO business at the time. And then I  
14 want to say early Q1 is when we took on a greater  
15 portion of the General Cigar portfolio to include more  
16 brands within our book of business.

17 Q Did you say Q1, to what does that refer?

18 A Quarter one.

19 Q What year?

20 A January, February, March of 2012.

21 Q Did this work for General Cigar involve  
22 market research?

23 A Again, as stated earlier, we did some  
24 competitive research. General Cigar has worked with  
25 an external third-party vendor on the East Coast to do

1 the majority of their market research, a consumer  
2 market research.

3 Q Do you know the name of that external third  
4 party?

5 A Not off the top of my head. It might come  
6 to me. I'll let you know if I remember it. Right now  
7 I'm not recalling.

8 Q Apart from consumer market research, would  
9 Moosylvania do any other kind of market research for  
10 General Cigar as part of its 360 program or otherwise?

11 A Again, competitive research. The research  
12 that we would do conform our marketing strategies. So  
13 I'm sure some level of research was done throughout  
14 our time frame with them.

15 Q Would Moosylvania conduct brand development  
16 as part of its work for General Cigar?

17 A Sure.

18 Q Would it conduct marketing strategies,  
19 develop marketing strategies for General Cigar as part  
20 of its work?

21 A Yes.

22 Q Has Moosylvania ever worked for Swedish  
23 Match?

24 A No, because I guess it's always been the  
25 Scandanavian Tobacco Group since we've been working on

1     them.  They have been the overseer of General Cigar.

2     They always have the STG group from what I recall.

3           Q     Have you ever done work for Scandinavian  
4     Tobacco Company other than work for General Cigar?

5           A     No.  I don't remember when Dan Carr came on  
6     board, but he would be the only contact we ever had at  
7     Swedish Match when he was at General Cigar.

8           Q     What is the Moosylvania's financial  
9     arrangement with General Cigar?

10          A     Can you rephrase the question?

11          Q     What is Moosylvania's financial arrangement  
12     with General Cigar currently?

13                   MR. DEUTSCH:  Objection.

14     BY MR. FRANK

15           [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
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[REDACTED]

Sturm Reporting Services, Inc.

Sturm Reporting Services, Inc.



Sturm Reporting Services, Inc.

1 [REDACTED]

3 BY MR. FRANK

4 Q Is any of Moosylvania's work for General  
5 Cigar related to the Cohiba cigar?

6 A Yes.

7 Q What does Moosylvania do with regard to  
8 General Cigar?

9 A Point of clarity, Cohiba USA. To be clear,  
10 we work on the Cohiba USA brand.

11 Q What does Moosylvania do for General Cigar  
12 related to its Cohiba cigar?

13 A Sure. Since we worked on the Cohiba USA  
14 business, we built digital platforms, we built a  
15 website for the Cohiba brand. We have done a photo  
16 shoot to capture product photography. We have done  
17 print advertising, social media marketing.

18 Q Social media, marketing, are those two  
19 things or one thing?

20 A One thing. We operate their social media  
21 channels. Concentration for them and community  
22 management.

23 Q You said you built their digital platforms,  
24 what does that mean?

25 A We built their Cohiba.com website that is in

1 market today. And, again, if we're going to umbrella  
2 social under the digital side we operate their social  
3 channels and create content for them. As of this  
4 year, we operate the Cohiba social channels, but we  
5 have not had any project work on the Cohiba brand in  
6 2017.

7 Q What does that mean, no project work in  
8 2017?

9 A The brand managers of General Cigar have not  
10 given Moosylvania any project requests on the Cohiba  
11 brand outside of social media in 2017.

12 Q As part of Moosylvania work for General  
13 Cigar related to Cohiba cigar it operates General  
14 Cigar social medial channels. What does that mean?

15 A So their primary Facebook page, their  
16 Instagram page and their Twitter page.

17 Q Does it encompass YouTube as well?

18 A Yes, we probably would have loaded -- we did  
19 a product video for Cohiba that we loaded onto their  
20 website and probably hosted through YouTube.

21 [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Sturm Reporting Services, Inc.

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 Q And when did Moosylvania first start its  
6 work on General Cigar Cohiba cigar?

7 A I believe that to be one of the brands that  
8 we received in that first quarter of 2012. Prior to  
9 that, they worked with a different agency, which I do  
10 not recall the name of that agency.

11 Q Was the name Square Root?

12 A Yes.

13 Q The work that you just described, has that  
14 work changed since Moosylvania began working on  
15 General Cigar Cohiba brand in the first quarter of  
16 2012?

17 A Yeah. As I mentioned in 2017, we managed  
18 the social media for Cohiba in 2017, but we have not  
19 received any other project work.

20 Q Other than that, has the work changed?

21 A No.

22 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

25 Q In your prior position at Moosylvania to

1 whom did you report?

2 A Prior to Mary Delano there was a gentleman  
3 named Nick Fabi who was a partner at Moosylvania. So  
4 Nick Fabi and, of course, Norty Cohen, our CEO.

5 Q Is there anyone at Moosylvania who's more  
6 knowledgeable about Moosylvania's Cohiba-related work  
7 than you?

8 A 2014 and on, no. Prior to that, yes.

9 Q Prior to that?

10 A Julie Ahrens was the lead account director  
11 on the business.

12 Q Do you know where she is currently?

13 A I believe she's at an agency called  
14 Paradowski here in St. Louis.

15 Q Has your role on Moosylvania's work on the  
16 Cohiba-related work changed over time?

17 A Can you rephrase the question, please?

18 Q Has your role in Moosylvania's work on  
19 Cohiba changed since you began working --

20 A So, yes.

21 Q -- on Cohiba?

22 A Prior to 2014, I was not the primary account  
23 lead. So, post 2014 now being on the account lead,  
24 yes, you can say that my role has changed.

25 Q Other than that, has it changed?

1           A     No, not really.

2           Q     How much time have you dedicated to  
3     Cohiba-related work in each year from 2012 --

4           A     Just like --

5           Q     -- to the present?

6           A     -- as we stated with the financials it does  
7     go into approximately 10 to 20 percent of my time on  
8     the General Cigar would have been dedicated to the  
9     Cohiba brand.

10          Q     And approximately how much of your time  
11     overall is dedicated to the Cohiba brand?

12          A     I'll put that in the five percent range,  
13     maybe smaller.

14          Q     And do you know if General Cigar currently  
15     uses any other outside company to assist it with  
16     marketing its Cohiba cigars?

17          A     I do believe now currently in 2017 they have  
18     contracted both -- I don't know what his exact title  
19     is, kind of a face or a head sales guy, but I believe  
20     they also work with another agency perhaps like a  
21     boutique agency. I believe Gus Martinez would be the  
22     best person to answer that question.

23          Q     Do you know the name of the boutique agency?

24          A     I don't. Gus Martinez is the director of  
25     marketing and would know that.



1 Q Other than this boutique agency, do you know  
2 if General Cigar has used an outside company to assist  
3 its marketing of its Cohiba cigar?

4 A Prior to Moosylvania the Square Root, as we  
5 discussed earlier, but other than that, to my  
6 knowledge, no.

7 Q Do you know if General Cigar currently uses  
8 any other outside company to assist it with its  
9 Internet or social media marketing for its Cohiba  
10 cigar?

11 A To my knowledge, no.

12 Q Has it in the past?

13 A Prior to Moosylvania taking over the Cohiba  
14 brand, yes.

15 Q But after the first quarter of 2012?

16 A So there was -- there was an offshoot of the  
17 Cohiba brand. They did a partnership with Jay-Z, the  
18 rapper. They did a collaborative effort on a cigar  
19 and they did use Jay-Z's marketing arm, Rock Nation.  
20 I don't know if you're going to roll that up under the  
21 Cohiba brand. So, yes, they did use Rock Nation for a  
22 short span while they sold that cigar.

23 Q Other than Rock Nation, Square Root and this  
24 boutique agency, are there any other outside agencies?

25 A Nothing else that I can think of.

1 Q Is Twitter part of social media?

2 A Yes.

3 Q Facebook?

4 A Yes.

5 Q Instagram?

6 A Yes.

7 Q YouTube?

8 A Yes. In my opinion, at least.

9 Q Would each of these qualify as a social  
10 media platform?

11 A Yes.

12 Q What role or roles does social media play  
13 for companies selling products like cigars?

14 A Well, it's more of a brand channel just to  
15 communicate brand messaging. We cannot directly sell  
16 or advertise from a paid perspective tobacco with any  
17 of those channels. It's against their terms and  
18 conditions. So what we are limited to is product  
19 photography and assets that we generate for the brand,  
20 branding.

21 Q Do companies have accounts on one of more of  
22 these social media platforms? Is it typical for a  
23 company --

24 A I was going to ask you to repeat that.

25 Q Is it typical for companies to have accounts

1 on one or more of these social media platforms?

2 A Yes, very common.

3 Q Is it important in your opinion?

4 A Absolutely.

5 Q When a company has an account on a social  
6 media platform and provides the kind of information  
7 that you were discussing that Moosylvania provides  
8 through General Cigar social media accounts on these  
9 platform, is that a form of promotion of the product?

10 MR. DEUTSCH: Objection.

11 A Would you mind repeating that for me.

12 (The reporter read the requested  
13 material.)

14 THE WITNESS: I suppose from one lens you  
15 could call it a promotion of a product.

16 BY MR. FRANK

17 Q Then when a company makes a post on its  
18 social media accounts, is that a form of promotion as  
19 well?

20 MR. DEUTSCH: Objection.

21 A It's a form of branding.

22 Q In the last five years, is social media  
23 playing a more prominent or less prominent role in  
24 advertising compared to print advertising?

25 MR. DEUTSCH: Objection.

1 MR. FRANK: Do you want to take a break?

2 MR. AVIGAD: Yeah.

3 (A short recess was taken.)

4 BY MR. FRANK

5 Q Do U.S. consumers obtain information about  
6 products through social media?

7 MR. DEUTSCH: Objection.

8 THE WITNESS: Perhaps. I can't speak for  
9 all consumers.

10 BY MR. FRANK

11 Q Is it a primary focus of your work to  
12 provide information to U.S. consumers about products  
13 for the companies for which you work?

14 A We talk about our products in our social  
15 channels. Whether or not consumers find that  
16 information or not, I'm not sure.

17 Q Is that something whether or not consumers  
18 find information about the products that you manage,  
19 is that information that's important to your work?

20 A In advertising and marketing, yes, seeking  
21 out consumers would be an important aspect of what we  
22 do.

23 Q Are you able to track whether or not  
24 consumers are finding information about the products  
25 for the companies whose social media channels you

1 managed?

2 A The analytical that the certain social  
3 channels, for example, like Facebook provide, we can  
4 see some information, you know, how many it reached,  
5 each post reaches or impressions, for example. We  
6 also utilize some third party analytical platforms  
7 that help shed a little light on that. But to your  
8 question on whether or not consumers actually see the  
9 post, I can't speak for all of them.

10 Q What's an impression on social media?

11 A When somebody sees it.

12 Q And that's a metric that Moosylvania tracks?

13 A It's a standardized metric in the industry.

14 Q Is that an important metric?

15 A It depends on the client.

16 Q Is it an important metric for General Cigar?

17 A It's something that we have reported on for  
18 them, yes.

19 Q Do you report on it regularly?

20 A Typically from an analytical perspective  
21 it's a quarterly regroup with the client that we would  
22 have. This year we have not had any quarterly  
23 regroups to date.

24 Q Are you trying to increase the number of  
25 impressions?

1 A Yes.

2 Q Is part of Moosylvania's work for General  
3 Cigar on its Cohiba account to increase the number of  
4 impressions by consumers?

5 A Sure, yes.

6 [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

10 Q What are the other metrics for social media?

11 A For social media, we would actually look at  
12 more from an engagement perspective, the way that an  
13 engagement would be defined is a like, comment or  
14 share or video view of a specific post.

15 Q What's a like?

16 A So if there's a little icon on the post that  
17 the consumer has the ability to actually click. When  
18 you do, that's considered a like.

19 Q What's a comment?

20 A If they actually write something within the  
21 comment section on the post.

22 Q And what's a share?

23 A Like similar to the like feature, there is  
24 an opportunity for consumers to actually share forward  
25 that post.

1 Q And who would --

2 A Kind of like sending an email, but with a  
3 social post.

4 Q Who would they be sharing it with?

5 A When they share it within the -- they would  
6 share it within their own network of friends or  
7 followers.

8 Q And what is a video view?

9 A So if we post a video to their social  
10 channel, if a consumer is exposed to that channel it  
11 is counted as a view.

12 Q Do you know what a hashtag is?

13 A I do.

14 Q What is it?

15 A A hashtag is -- it's essentially a key word  
16 search strategy. It aggregates content under a  
17 singular key word channel.

18 Q And is it used in Facebook?

19 A It can be.

20 Q Is it used in Instagram?

21 A More frequently, yes.

22 Q Is it used in Twitter?

23 A More frequently, yes. When I say more  
24 frequently I mean versus Facebook.

25 Q You say it's a key word search strategy?

1 A Correct.

2 Q What does that mean?

3 A So if you select a specific hashtag with a  
4 key word attached to that. So let's say it was  
5 hashtag cigar as an example, your content and anybody  
6 else in the social universe that uses that hashtag, if  
7 they use it within the post, all of that content falls  
8 under that hashtag stream.

9 Q Who uses hashtag?

10 A Consumers, brands.

11 Q How do consumers use hashtags?

12 A They type them. They put them in their  
13 posts. They use them.

14 Q Do you know why -- how they would use  
15 hashtags or what reason they use hashtags?

16 A To be a part of that content stream.

17 Q Would consumers search for certain hashtags?

18 A Presumably, yes, they could.

19 Q And do you know whether it's common for U.S.  
20 consumers to search on social media for information  
21 using hashtags?

22 A I'm not sure.

23 Q Do you know what user-generated content is?

24 A Yes.

25 Q What is it?



1           A       When a user crafts, creates and posts  
2 content.   It's user generated.

3           Q       Is there user generated content on Facebook?

4           A       Yes.

5           Q       Is there user generated content on  
6 Instagram?

7           A       Yes.

8           Q       On Twitter?

9           A       Yes.

10          Q       On YouTube?

11          A       Yes.

12          Q       In your experience, did U.S. consumers  
13 obtain information on products from posts on social  
14 media by their friends about those same products?

15               MR. DEUTSCH:  Objection.

16               THE WITNESS:  Presumably.  I can't speak for  
17 all consumers.

18          BY MR. FRANK

19          Q       Do companies -- do the companies for which  
20 Moosylvania worked try to promote their products by  
21 trying to get people on social media to post about  
22 their products?

23               MR. DEUTSCH:  Objection.

24               THE WITNESS:  So, again, we do look at  
25 engagements.  Presumably.  I mean, that's a benefit,

1     yeah.    I mean, we can't ask a consumer to do that.

2           Q     I know you can't ask, but do companies try  
3     to get consumers to post?

4           MR. DEUTSCH:   Objection.

5           THE WITNESS:   Again, we can't ask a consumer  
6     to do that.   I don't know how to answer your question  
7     other than we can't ask a consumer to do that.

8     BY MR. FRANK

9           Q     Would it be helpful for a company for users  
10    to make a post on social media about their products?

11          MR. DEUTSCH:   Objection.

12          THE WITNESS:   Presumably any post about a  
13    content or a brand that's created outside of a company  
14    could be perceived valuable, but also could be  
15    perceived as a negative effect against the company.

16    BY MR. FRANK

17          Q     Why would it be perceived as a negative  
18    effect?

19          A     Depends on the context of the post.

20          Q     What would be a negative context?

21          A     If it's a bad review, for example.

22          Q     What would be -- any other ideas of negative  
23    content?

24          A     I don't know.   Bad review is the first thing  
25    that came to mind.

1 BY MR. FRANK

2 Q And when do most impressions happen?

3 MR. DEUTSCH: Objection.

4 THE WITNESS: Depends on the post. I can  
5 give an example external of when there are near-term  
6 and long-term strategies of content. The movie  
7 industry uses it all the time.

8 BY MR. FRANK

9 [REDACTED]

\_\_\_\_\_

\_\_\_\_\_

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23 Q Does Moosylvania have a document, such as a  
24 manual, that describes different marketing terms?

25 A So within the analytics document that we

1 provided to the client, yeah, we've given definitions  
2 of certain terminology, nomenclature so they  
3 understand what things are. It's typically the back  
4 page of that report. I'm sure you guys have seen it.

5 Q This is a report that's given to General  
6 Cigar?

7 A It was a quarterly analytics report that we  
8 discussed earlier.

9 Q That quarterly analytics report, for how  
10 long has Moosylvania been providing that to General  
11 Cigar concerning its Cohiba cigar?

12 A We have not done that this year. Again, we  
13 haven't had the opportunity to meet with Cohiba here,  
14 but prior to that for a couple years we were doing  
15 quarterly regroups.

16 Q Do you know since when?

17 A I'm not sure of the exact time frame on  
18 that. A couple years prior to this year.

19 Q Do you say 2016, 2015?

20 A I don't want to speculate. Again, I'm not  
21 sure of the exact time frame.

22 Q Were all those reports provided as part of  
23 Moosylvania's production in response to subpoena?

24 A Presumably we provided all documentation  
25 that we could find with the key word search of Cohiba.

1 brand and the product.

2 BY MR. FRANK

3 Q How important is developing a website for  
4 General Cigar?

5 A The Internet, you probably want a website.

6 Q And what role does -- does a website play  
7 for a company?

8 A Depends on the brand, depends on the  
9 product.

10 Q What role does General Cigar's Cohiba  
11 website play for General Cigar?

12 A Suppose I would clarify it as a product  
13 website.

14 Q What does that mean?

15 A It's a place where consumers can find  
16 information about their specific cigars.

17 Q A type of promotion?

18 A Not on Cohiba.

19 Q Why not?

20 A We don't have promotions that we've done  
21 with Cohiba.

22 Q No, but isn't the provision of information  
23 about a product a way to promote the product --

24 A When I say promotion, just for point of  
25 clarity, promotion being some sort of marketing

1 strategy, you know. An example could be I've giving  
2 away something. That's how I'm defining promotion in  
3 this regard. If you're saying just an overall  
4 branding or marketing platform to talk about their  
5 products, yes, the website could be used to talk about  
6 their products. To make sure we're clear on the  
7 delineation there, promotion.

8 Q And is getting out information about a  
9 company's product, is that a form of promotion?

10 MR. DEUTSCH: Objection.

11 THE WITNESS: It's talking about the  
12 product.

13 BY MR. FRANK

14 Q Do you know if there's a Cohiba cigar that's  
15 made by a Cuban company?

16 A I do know that there's a Cuban Cohiba, yes.  
17 Personally, yes.

18 Q Do you know which company made its Cohiba  
19 cigar first, General Cigar or the Cuban company that  
20 makes the Cohiba cigar?

21 A Well, historically speaking I'm of the  
22 impression that Cohiba was a Tastree brand so I  
23 imagine it was a Cuban cigar.

24 MR. DEUTSCH: Objection. Move to strike.

25

16 Q Does General Cigar have a Twitter account

17 for its Cohiba cigar?

19 Q Do you know what person or company first  
20 developed this Twitter account?

22 Q Do you know if it was Moosylvania?

23           A       I'm not sure if we opened that account for  
24   that.

25 Q Does Moosylvania -- does Moosylvania do any

1 work related to General Cigar's Cohiba Twitter  
2 account?

3 A I believe we have ever, yes.

4 Q Do you currently do any work related to  
5 General Cigar's Cohiba Twitter account?

6 A I would want to confirm with the social team  
7 if they still manage or operate the Twitter channel  
8 specifically. Some of the brands we got away from  
9 using Twitter. It's just a channel that we haven't  
10 seen much value in for some brands. So I would need  
11 to confirm.

12 Q In the past, has any of Moosylvania's work  
13 related to General Cigar's Cohiba Twitter account?

14 A Again, I believe so, but I would need to  
15 confirm.

16 Q Do you know if Moosylvania's work on General  
17 Cigar's Twitter account has changed over the years?

18 A I'm not understanding the context of the  
19 question.

20 Q Has the type of work that Moosylvania does  
21 related to General Cigar's Twitter account, has it  
22 changed over the years?

23 A Assuming we continued to work on it, no, it  
24 wouldn't have changed.

25 Q Do you know what Moosylvania has done



1 concerning General Cigar Twitter account, Cohiba  
2 Twitter account?

3 A Again, I'm not sure.

4 Q You're not sure what Moosylvania has ever  
5 done with related to General Cigar's Twitter --

6 A I'm not sure.

7 Q Has it made posts to General Cigar's Twitter  
8 account?

9 A Assuming that we maintain that we would have  
10 made content assets for it just like Facebook and  
11 Instagram.

12 Q Have you made any change to the structure of  
13 the account?

14 MR. DEUTSCH: Objection.

15 THE WITNESS: I recall on Facebook in  
16 particular there was a time when we were updating or  
17 reached out to Facebook in particular about the  
18 handle. The specific name.

19 Q The specific --

20 A I understand. There's a point. If we were  
21 approaching from a universal approach trying to unify  
22 those names across the channels, we might have done  
23 that on Twitter as well.

24 Q Is there a community manager at Moosylvania  
25 who would be assigned to General Cigar's Cohiba

1 Twitter account?

2 A Yes.

3 Q What would that community manager do?

4 A Manage the community. So they manage the  
5 conversation -- to a conversation between  
6 representative of the brand and the consumer.

7 Q And can you give me examples of what they  
8 would do to manage the conversation?

9 A So if somebody said where can I find this  
10 Cohiba cigar, I live in this zip code, we would point  
11 them to a specific place where they could find that  
12 information.

13 Q Would it be the responsibility of the  
14 community manager of General cigar's Cohiba Twitter  
15 account to regularly review the Twitter account?

16 A Again, under the premiss that we were over  
17 this entire time period managing that Twitterer feed,  
18 yes, they would be responsible for that.

19 Q Would they be responsible for monitoring all  
20 aspects of the Twitter account?

21 A Yes. Can you specify what you're talking  
22 about when you say all aspects just so I'm clear.

23 Q Well, for example, there are different --  
24 are there different tabs on the Twitter account,  
25 the --

1 A So the community manager --

2 Q There's an About tab, there's a community  
3 tab, different information that's posted to a Twitter  
4 account; is that correct?

5 A Yes. Sure. If there is specific brand  
6 information, you know, updating the profile picture,  
7 updating if there's a link to the website, yes, they  
8 would be responsible for that, as well as managing the  
9 actual feed, posting the content and then anybody that  
10 communicates.

11 Q Is there a community part of the Twitter  
12 account?

13 A Yes. So the brands have people who like  
14 Facebook, like Instagram, like that certain channel to  
15 be a fan of it. That's part of the two-way  
16 communication. If they post comments they can respond  
17 to that.

18 [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

22           A       It changes. I don't know if we have Luke or  
23   Justin on that one. There's two potential people that  
24   it is. I'm not sure which one is working on it  
25   currently right now.

1 Q Who are the two potential people?

2 A Can I look up a name?

3 Q Sure.

4 A Justin Dioneda, D-I-O-N-E-D-A, or Luke  
5 Clark.

6 Q And in the past, do you know who the  
7 community managers for General Cigar's Cohiba cigar's  
8 network?

9 A In the past it was Sean McCormick. Sean is  
10 no longer with the agency.

11 Q Apart from additional postings, did General  
12 Cigar's Cohiba Twitter account, do you know if this  
13 account has otherwise been changed since its creation?

14 A Is that to the Twitter account?

15 Q To the Twitter account.

16 A Again, if we updated or requested that we  
17 update the handle through Twitter that may have taken  
18 place. I don't know if I'm crossing the wires with  
19 some of the other brands that we worked on in General  
20 Cigar, however.

21 Q Do you know when General Cigar's Cohiba  
22 Twitter account was first created?

23 A I do not.

24 [REDACTED]  
[REDACTED]

1 [REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED] [REDACTED] [REDACTED]

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[REDACTED] [REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED] [REDACTED]

1

2 Q And is there user-generated content on  
3 General Cigar's Cohiba Twitter page?

4 A Again, I can't speak specifically to  
5 Twitter, but we have used user-generated content  
6 within the other social channels for Cohiba.

7 Q Explain. I don't understand.

8 A So I mentioned earlier that I wasn't exactly  
9 sure the time frame on the Twitter channel on the  
10 Twitter page. I'm letting you know that we have used  
11 user-generated content. I can't speak as to when that  
12 may or may not have been placed on the Twitter page.  
13 I can more definitively say we have used that on  
14 Facebook and Instagram.

15 Q Can a user make a post that would appear on  
16 General Cigar's Twitter account page dedicated to  
17 Cohiba?

18 A So on their behalf, yes, they could post  
19 something. They could post an image. We can also  
20 repurpose a user -- this is in general, generality.  
21 We can take a user's post and tag them if we wanted to  
22 use that as a piece of user-generated content.

23 Q What does that do?

24 A You're highlighting somebody's post, kind of  
25 like a professional nod.

1 Q What would the additional step of tagging  
2 their post, what would that do?

3 A Give them credit.

4 Q Are people who are visiting General Cigar's  
5 Cohiba Twitter page, are they able to see  
6 user-generated content created by other people?

7 A Presumably.

8 Q When you say presumably, why not yes?

9 A Well, there's a content feed on Twitter. As  
10 content is posted or any post happens, content moves  
11 down. So depending on when they log in and look at  
12 the feed, they may or may not see a specific post at  
13 any given time.

14 Q But they can scroll down to see that post?

15 A Yes.

16 Q Does the person -- does the community  
17 manager at Moosylvania that's responsible for General  
18 Cigar's Twitter account page look at user-generated  
19 content?

20 A Presumably, yes.

21 (Exhibit 4 was marked for  
22 identification.)

23 BY MR. FRANK

24 Q We marked this as Exhibit 4. Document Bates  
25 number GENC018813 through last page GENC0018831. This



1 is excerpts from a document titled GCC/moose Q2 and  
2 Q3 recap presented by Moosylvania. Can you please  
3 identify this document?

4 A Yeah. It's a portion of the quarterly  
5 analytic's report that I referenced earlier.

6 Q Did you know what year this is for?

7 A Based on the document, no.

8 Q On page -- on the third page?

9 A Lined up?

10 Q Correct.

11 A Okay.

12 Q Does this have any indication to help  
13 refresh your recollection of when this may be?

14 A No.

15 Q Says Facebook's revenue is reported at  
16 5.38 billion in Q1 in 2016. So presumably it was --

17 A Presumably.

18 Q -- after 2016?

19 A I don't know when this chart was pulled,  
20 when that was reported.

21 Q Do you know who created this document?

22 A Well, my team would have reported this  
23 together. I can say what is included in this document  
24 at least, the social team at the time of document's  
25 creation, which I don't know when that was, would have

1 done -- there's no page numbers on here. Anything  
2 this Cohiba title slides back --

3 MR. AVIGAD: You can quote that page.

4 THE WITNESS: Thank you. From GENC0018827  
5 back to 18830. That would have been by the community  
6 managers. The start of the dec -- starting with  
7 18815 --

8 Q Do you mean 30 or 31?

9 A Excuse me. 331, yeah. And the 18815 to  
10 18819 would have been done by Andrew Cohen.

11 Q What's Andrew Cohen's title?

12 A He's the director of social media at  
13 Moosylvania.

14 Q And was this document given to General  
15 Cigar?

16 A Presumably, yes, they would have come into  
17 town or we would have gone there, I'm not sure which,  
18 to present this.

19 Q To whom would this document have been given?

20 A Depending on the meeting, typically speaking  
21 it was Allen Willner, Gus Martinez and some of the  
22 grand managers, depending on the time. Sometimes  
23 Steve Abbot came, sometimes Ed McKenna. Sometimes  
24 Michael Giannini. They weren't always there. The  
25 core group to attendees would have been Ed McKenna,

1 Gus Martinez, and Allen Willner.

2 Q I'm sorry, Allen Willner, Gus Martinez and?

3 A Ed McKenna.

4 Q And Ed McKenna?

5 A Yes.

6 Q And Victoria McKee?

7 A She was in the past, but in the last year at  
8 least she was not a regular attendee.

9 Q Do you know the positions of the individuals  
10 at General Cigar?

11 A So Allen Willner was the primary lead of the  
12 marketing group. Ed McKenna and Gus Martinez are I  
13 guess the directors, codirectors, I guess of  
14 marketing. That was after Allen Willner's departure  
15 from the company.

16 Q Steve Abbot?

17 A Brand manager.

18 Q And Michael --

19 A Giannini. He's no longer there, but he was  
20 also a brand manager.

21 Q Do you know is this a final document?

22 A This looks to be -- I'm not sure. Sometimes  
23 we did individual reports like this. Sometimes we did  
24 reports where we had all the other brands that we  
25 report on associated to this dec. So I'm not sure if

1 this was the whole thing. I'm assuming this was just  
2 a piece of.

3 Q That's correct. This is excerpts related to  
4 Cohiba.

5 A Okay, okay.

6 Q In an effort to save the number of data.

7 A Understood, understood.

8 Q I have excerpts here.

9 Can you turn to --

10 A I'd like to go back and just let you know  
11 that we do work on Twitter as we can see from the  
12 document. I couldn't remember the time frame and  
13 everything, but, yes.

14 Q So you're saying that the community  
15 manager --

16 A Yes.

17 Q -- would have been doing work?

18 A As discussed earlier, the community manager  
19 would have been doing work on Twitter.

20 Q On page GENC0018830, the second to last  
21 page.

22 A Yeah.

23 [REDACTED]

[REDACTED]

[REDACTED]

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22           A       I'm not exactly sure on dates, but I would  
23       approximate that relationship began in and around that  
24       2012 time frame. We use it for more than just General  
25       Cigar. We use it for all of our social clients.



1 Q Do you use it for General Cigar's Cohiba  
2 brand?

3 A Yes, we just stated that.

4 Q And does Sprout Social send regular reports  
5 to Moosylvania concerning General Cigar's Cohiba  
6 social media platform?

7 A As I just stated, you can sign up for auto  
8 reports.

9 Q Does Moosylvania sign up for auto reports?

10 A I do believe we handed over some  
11 documentation that showed that there were some people  
12 that had some auto reports. I'm not sure exactly who  
13 and what persons within our company did so.

14 Q Do you know did Moosylvania regularly  
15 received reports since 2012?

16 A I do not know.

17 Q Does Moosylvania continue to use Sprout  
18 Social to monitor General Cigar's and Cohiba's social  
19 platforms?

20 A Yes. This is the third time I've answered  
21 yes on that.

22 Q Other than Sprout Social, are there any  
23 other third party software that Moosylvania uses?

24 A We do use a company called Zuum Social for  
25 social analytics.

1 Q Since when?

2 A I'm not sure on that one. Within the last  
3 five years, six years, somewhere in there.

4 Q Does Moosylvania similarly receive -- is  
5 there -- does Zuum provide reports to Moosylvania  
6 concerning General Cigar's Cohiba social media  
7 accounts?

8 A I'm not sure if they have an auto report  
9 feature. To my knowledge, that's one you manually go  
10 in and generate or pull information that you need.

11 Q Do you know how far back when you can get  
12 information from either Sprout Social or Zuum?

13 A I'm not sure.

14 Q Have you ever gone into Sprout Social to  
15 view the information tracked by Sprout Social?

16 A Me personally, yes. Me, yes, I have.

17 Q When?

18 A Several times throughout, whenever -- as  
19 long as we've had the product, yes, I've had access to  
20 it and used it personally.

21 Q How regularly do you use it?

22 A Definitely when we make these quarterly  
23 reports is the most frequent usage. That's me  
24 personally. Our team, the social guys use it  
25 regularly because outside of analytics it's also a

1 place they can post content and a posting platform.

2 So it's almost a daily feature for that.

3 Q Is that for Sprout Social and Zuum?

4 A No. Just Sprout Social. Thank you for  
5 clarity. Zuum is specifically for analytics.

6 Q Have you ever gone into Zuum to view reports  
7 on General Cigar's Cohiba social platform?

8 A I have personally, yes.

9 Q How often do you do that?

10 A When we do quarterly reports or if any  
11 random requests come up from a client, but it's not  
12 like typical behavior for me to go in and check that  
13 daily or weekly or whatnot.

14 Q And when you go to Sprout Social prior to  
15 preparing the quarterly reports, do you print out any  
16 information?

17 A I personally do not print out anything from  
18 Sprout.

19 Q What about from Zuum?

20 A I might have downloaded like a CSV file from  
21 Zuum, but typically, no, it's all manually transcribed  
22 into these reports.

23 Q And what information does Zuum track?

24 A So Zuum, outside of our specific, so General  
25 Cigar related channel or any other clients that

1 Moosylvania manages, we also have the ability to put  
2 in competitor brands to track limited analytics on  
3 what they're doing on their social channels.

4 Q Have you ever tracked analytics of the  
5 Cuban -- the maker of the Cuban Cohiba cigar?

6 A No, we have not.

7 Q And what kind of information -- what kind of  
8 information does the Zuum -- does Zuum provide?

9 A So they have some sort of white label access  
10 with some of the different social channels, Facebook,  
11 Twitter, Instagram. I think very limited YouTube  
12 information. And it can provide information such as  
13 like engagements, number of engagements, number of  
14 posts. It can report on different hashtags that were  
15 used or keywords from comments. It does show some of  
16 the posts.

17 Q Were any of these -- apart from the  
18 quarterly reports, were any of the -- were any reports  
19 from Zuum or Sprout Social provided to General Cigar?

20 A Yes.

21 Q Do you know when?

22 A From time to time Allen Willner had some  
23 requests on like channel growth and stuff and we would  
24 utilize Zuum in particular. Again, so we're not --  
25 we're transcribing into separate documents for that,

1 but I don't -- I don't know exactly when that  
2 happened, but it was periodic.

3 Q Periodic being every couple of weeks. Every  
4 couple months, every couple years?

5 A Maybe a couple times a year. It was random  
6 check-ins.

7 Q Is that the same for Zuum and Sprout Social?

8 A Well, that particular thing was mostly Zuum.  
9 Sometimes -- the thing is, those two channels, they do  
10 provide different sources of information. So a report  
11 like this we would use both to source that  
12 information. So I would say in most instances we're  
13 probably tapping into both.

14 Q What kind of information does Sprout Social  
15 provide?

16 A So Sprout gives comparable information to  
17 Zuum, but reports on things a little bit differently  
18 in their methodology. So I want to say that Sprout  
19 might have impression-level data whereas Zuum does  
20 not, and that could be vice versa, don't quote me on  
21 it, that they'll use and then stuff specific to posts.

22 Q Were there any discussions with anyone at  
23 General Cigar concerning these reports?

24 A We present --

25 Q Other than the quarterly reports, were there

1 any discussions about their reports generated by Zuum  
2 or Sprout Social?

3 A So the reports that we presented you're  
4 saying, that we created, not that were -- so I want to  
5 be clear on this. We didn't generate a report and  
6 download a report from either Sprout or Zuum to then  
7 hand to a client. Moosylvania created a customer  
8 report like this that you would see within a  
9 PowerPoint format utilizing sourced information from  
10 these third party services.

11 Q Does any of the information track -- on  
12 either Zuum or Sprout Social, did any of those -- did  
13 any of that information have information concerning  
14 the Cuban Cohiba cigar?

15 A To my knowledge, no. We made a reference in  
16 this in the findings but, no, we never reported on the  
17 Cuban --

18 Q Did the information themselves provided by  
19 Zuum or Sprout Social have information concerning --

20 A Understood. No.

21 MR. FRANK: Mark this as 5.

22 (Exhibit 5 was marked for  
23 identification.)

24 THE WITNESS: Are these all different?

25

1 BY MR. FRANK

2 Q I tried to make it convenient for you. This  
3 is marked as Exhibit 5. These are six different  
4 reports.

5 A Right.

6 Q Produced by Zuum. Produced by Moosylvania  
7 as part of its production. Reports generated by Zuum.  
8 I've tabbed the pages to see.

9 A Got it.

10 Q To see the difference.

11 A Do you want to go directly there?

12 Q Yeah. I won't enter the Bates numbers.  
13 They take took long.

14 On the first tab page is MS0030198.

15 A Yeah.

16 Q Do you see a section on the left says:  
17 "Your pages most engaging fan post?"

18 A Yes.

19 MR. DEUTSCH: Which page was that?

20 MR. FRANK: The first yellow tab.

21 BY MR. FRANK

22 [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[illegible]

25





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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

11 Q Have you ever -- in your six years working  
12 on Cohiba have you ever seen a Cuban Cohiba cigar?

13 A I have never actually seen a Cohiba.

14 Q Have you seen an image on a Cohiba Cuban  
15 cigar?

16 A I don't know.

17 Q You don't know?

18 A I don't know if I've ever actually seen an  
19 image of a real Cohiba Cuban cigar.

20 Q Have you seen an image that claims to be a  
21 Cuban Cohiba cigar?

22 A Sure. I don't know when, but sure.

23 Q Do you know what the trade dress of the  
24 Cuban Cohiba cigar looks like?

25 A I'm not sure. What do you mean the trade



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22 Q Right. So previously I asked did the  
23 information in the Zuum report provide -- did the  
24 information themselves provided by Zuum to Sprout or  
25 Social have information concerning the Cuban Cohiba

1 and you said understood, no?

2 A Uh-huh.

3 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

11 Q Yeah, but you viewed this information; is  
12 that correct?

13 MR. DEUTSCH: Objection.

14 THE WITNESS: I don't know if I've actually  
15 seen this.

16 BY MR. FRANK

17 Q Did you review any of these reports?

18 A I don't know.

19 MR. DEUTSCH: Objection.

20 THE WITNESS: I don't know. I've worked on  
21 the brand for six years. I work on a lot of other  
22 clients as well. I've seen a lot of reports and a lot  
23 of things.

24 BY MR. FRANK

25 Q As part of your quarterly report you said



1 Facebook has a statute of limitation on their data of  
2 one to two years, somewhere in that range. It might  
3 be shorter. I'm not sure about the other two.

4 Q Do you know how regularly Moosylvania  
5 reviews those statistics on -- from Twitter, Facebook  
6 and Instagram?

7 A I don't know.

8 Q Who would know that information?

9 A The community managers would be better  
10 suited to answer that question.

11 Q Are any of these statistics provided to  
12 General Cigar?

13 A They could be translated within a report,  
14 like the quarterly report document S -- I think that's  
15 an S.

16 Q Is that Exhibit 4?

17 A Exhibit 4.

18 Q Other than the quarterly reports and the  
19 special reports --

20 A Yeah.

21 Q -- I believe you mentioned prior, are there  
22 any other reports provided by Moosylvania to General  
23 Cigar concerning General Cigar's social media  
24 platforms?

25 A There could be. There could be. I don't

1 know definitively. I mean, this was the Exhibit 4 and  
2 documents like this. The quarterly reports are the  
3 primary reporting that we would do for General Cigar.

4 Q Do you know who would review the ad hoc  
5 reports that you mentioned earlier, who at General  
6 Cigar?

7 A Thank you. If -- so ad hoc reports could  
8 have come from a, like a brand manager looking to  
9 understand a specific metric from their social  
10 platform. So that could have been Steve Abbot,  
11 Michael Giannini, Ed Layman, and so on and so forth,  
12 their brand team. It also could have been Allen  
13 Willner or Gus Martinez. That's also under the  
14 premise that they asked for something.

15 Q Can you estimate how many such ad hoc  
16 reports have been created?

17 A I have one in mind that I would do for  
18 Allen. Again, we talked about this one earlier. It  
19 was maybe a couple of times a year that that report  
20 would be generated.

21 [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

1

2

3 Q Do you know if anyone at General Cigar  
4 reviews General Cigar's Cohiba Twitter account?

5 A I don't.

6 Q Do you know if anyone at General Cigar  
7 reviews its content on Cohiba's Twitter account?

8 A I don't.

9 Q Describe the process of how a post is made  
10 to -- strike that.

11 Describe the process -- strike that.

12 Does General Cigar make posts to Cohiba's  
13 Twitter account?

14 A Is Moosylvania considered an arm of General  
15 Cigar?

16 Q For the purpose of this question, yeah.

17 A To my knowledge, no. Have they ever, I  
18 can't speak to that.

19 Q Does Moosylvania make posts at General  
20 Cigar's Cohiba Twitter account?

21 A Yes.

22 Q Do you review all posts to General Cigar's  
23 Cohiba Twitter account before they're made public?

24 A Me personally?

25 Q Correct.

1           A     Not always, no. That's typically a director  
2     of social's responsibility.

3           Q     Do you view most of them?

4                     MR. AVIGAD: You said before they're made  
5     public?

6                     MR. FRANK: Before they're made public.

7                     MR. AVIGAD: He's asking review of posts  
8     before --

9                     THE WITNESS: Understood. That's what the  
10    director of social would do with the content team,  
11    they would review the posts. You're saying what  
12    Moosylvania creates in-house?

13    BY MR. FRANK

14           Q     Yes.

15           A     Yes. The content that Moosylvania creates,  
16    a director of social would view before it's posted.

17           Q     But the question is: Do you review most of  
18    that?

19           A     I do not, no.

20           Q     You don't review most of it before it's  
21    made?

22           A     I do not.

23           [REDACTED]

[REDACTED]

[REDACTED]

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1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 Q Does General Cigar have an Instagram account  
20 for its Cohiba cigar?

21 A Yes.

22 Q Do you know what company first developed  
23 General Cigar's Instagram account for Cohiba cigar?

24 A I believe that was Moosylvania.

25 Q Do you know when?

1           A     I do not. I believe it was Moosylvania. I  
2     would need to verify, but I'm pretty sure we did that.

3           Q     Were you involved in the creation of General  
4     Cigar's first Instagram account?

5           A     Again, I'm not sure if we created it so I'm  
6     not sure if I was involved in that.

7           Q     You don't remember working on the creation  
8     of General Cigar's Instagram account for Cohiba?

9           A     I know CAO had it prior to us. I know it  
10    did exist. I don't remember if we created it.

11          Q     Does Moosylvania do any work related to  
12    General Cigar's Cohiba Instagram account?

13          A     Yes.

14          Q     What does it do?

15          A     We post content on it.

16          Q     Anything else?

17          A     It's a social channel. We post content and  
18    we community manage, just like Facebook, just like  
19    Twitter.

20          Q     Other than additional posts, has General  
21    Cigar's Cohiba Instagram account changed since its  
22    creation?

23          A     To my knowledge, I don't think so.

24          [REDACTED]  
[REDACTED]

1

█

█

█

█

█

7

Q Would it be the community manager that's in charge of monitoring General Cigar's Cohiba Instagram account?

10

A Yes.

11

Q And would his responsibilities be the same as previously described in this deposition?

12

13

A Yes, they would.

14

Q Do you know if the community manager looks at user-generated content posted to General Cigar's Cohiba Instagram account?

15

16

17

A I would expect as much, yes.

18

Q Does the community manager ever report to you on the user-generated content posted to General Cigar's Cohiba Instagram account?

19

20

21

A Within the context of these quarterly reports, Exhibit 4, yes, we see some level of posts.

22

23

Q Any other time?

24

A Not regularly. I mean, ever, perhaps, something very notable happened.

25





24 Q Does General Cigar have a Facebook account  
25 for its Cohiba cigars?

1           A       It does.

2           Q       And do you know what person or company first  
3 developed General Cigar's Facebook account?

4           A       I don't know the originator of that page.

5           Q       Were you involved in first developing  
6 General Cigar's Facebook account?

7           A       I don't know who developed the page, so I  
8 would not have been involved.

9           Q       Would it be Moosylvania?

10          A       Moosylvania did not develop the original  
11 Cohiba page.

12          Q       Does Moosylvania do any work related to  
13 General Cigar's Cohiba Facebook page?

14          A       Yes, we actively maintain it currently.

15          Q       When you say actively maintain it, what does  
16 that involve?

17          A       Just like Twitter and Instagram, we post  
18 content to the page.

19          Q       Just like Twitter and content you also do  
20 community management?

21          A       Correct.

22          Q       That would involve review of user-generated  
23 content posted to General Cigar's Cohiba Facebook  
24 page; is that correct?

25          A       So, again, we don't actively maintain or

1 mark down any time a post does come in. Do we see it,  
2 yes.

3 Q Apart from additional posting to General  
4 Cigar's Cohiba Facebook account, do you know if this  
5 account has otherwise been changed since it was first  
6 created?

7 A Yes. I think I mentioned this earlier, but  
8 I believe we went through a handle change or at least  
9 a discovery of changing the handle or name of the  
10 page.

11 Q And when did that occur?

12 A 2013, 2014. Somewhere in there.

13 Q And do you know who was involved in that  
14 process?

15 A The director of social at the time would  
16 have been Lisa Keller. We had a guy named Aaron  
17 Stevens which was a digital -- Aaron Stevens, which  
18 was a digital strategist. Anna Price, maybe, worked  
19 on it. I think she was on the business at the time.  
20 And if I recall, we -- it was trying to make a  
21 universal handle match up with the URL structure that  
22 we had. So we sent a request to Facebook for that.

23 [REDACTED]  
[REDACTED]  
[REDACTED]

1

2

3

4

Q Is there someone in charge at Moosylvania  
maintaining this account?

6

A The social accounts?

7

Q Yeah. No, the Moosylvania -- the General  
Cigar's Cohiba Facebook account.

9

A Yes.

10

Q Who is that?

11

A Same person that manages Instagram and  
Twitter.

13

Q The community manager; is that correct?

14

A Yes, yes.

15

Q Is that the person that monitors traffic on  
General Cigar's Cohiba Facebook page?

17

A Yes, sir.

18

Q Is there any user-generated content on  
General Cigar's Cohiba Facebook page?

20

A Presumably, yes.

21

Q Do people who visit General Cigar's Cohiba  
Facebook page, are they able to see user-generated  
content created by other individuals?

24

A Theoretically, yes, they would be.

25

Q Why do you say theoretically?

1           A     I can't speak for everybody that comes to  
2     the page and maybe sees the post.

3           Q     Not if they see, are they able to see?

4           A     They would be able to see, yeah.   Yes, they  
5     went through the timeline and saw a post, yes, they  
6     would see it.

7           Q     Is that the same for General Cigar's Cohiba  
8     Instagram and Twitter accounts?

9           A     I believe we answered that earlier, yes.

10          Q     Are statistics maintained concerning General  
11     Cigar's Cohiba Facebook account?

12          A     So, yes, going back to the document, Exhibit  
13     4, we do maintain analytics for the purpose of  
14     reporting.

15          Q     Are there any analytics other than those  
16     previously mentioned?

17          A     For Facebook specifically, no, not -- not to  
18     my knowledge.

19           [REDACTED]  
[REDACTED]  
[REDACTED]     [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]     [REDACTED]  
[REDACTED]     [REDACTED]  
[REDACTED]     [REDACTED]s.

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15 Q Do you know what percentage of the social  
16 media posts to General Cigar's Cohiba social media  
17 accounts included the #Cohiba?

19            Q       Can you estimate?

20           A     No, not with any accuracy.

21 Q Do posts to -- do Moosylvania's post to  
22 General Cigar's social media accounts regularly use  
23 other hashtags?

24 MR. DEUTSCH: Objection.

25 THE WITNESS: Sorry. Can you repeat that



1 for me, please?

2 (The reporter read the requested  
3 material.)

4 MR. DEUTSCH: Same objection.

5 THE WITNESS: Yeah, again, I'm not sure if  
6 all accounts use hashtags or all brands.

7 BY MR. FRANK

8 Q Do you know if the hashtag #Cohiba is also  
9 used in relationship to the Cuban Cohiba cigar?

10 A I do not know that.

11 (A short recess was taken.)

12 (Exhibit 6 was marked for  
13 identification.)

14 BY MR. FRANK

15 Q Introduce Exhibit 6 here, Bates No. MS00  
16 10823 to 824. Can you please identify this document?

17 A It's a, according to the document, emerging  
18 social trends overview for Cohiba.

19 Q Do you know who created this document?

20 A I did not. I believe this to be the work of  
21 Andrew Cohen. I cannot say definitively, but I --

22 Q Have you ever seen it before?

23 A It's not coming to memory, but perhaps.

24 Q Do you know if this document was ever sent  
25 to General Cigar?

1 it was used. Do you have an email that corresponds  
2 with it or --

3 Q Let's make this part of -- let's make this  
4 part of Exhibit 6.

5 A It was before my time.

6 Q On MS0005986 to 5988, you're including as  
7 part of Harris Exhibit 6, can you identify this  
8 document, please?

9 A I mean, it's an email that dates back to  
10 2012. This mentions Julia Ahrens. I mentioned  
11 earlier she was the lead on the General Cigar account  
12 at the time. So she would be better able to speak to  
13 this than I would.

14 Q Were you copied on the email chain?

15 A I was copied on the email. So based on who  
16 was included in these, I would assume that Lisa  
17 Keller, the director of social media, developed this  
18 emerging trends document. It does state in the  
19 email -- I'm assuming this is the physical Google doc  
20 that you download. So Lisa Keller did, in fact,  
21 create this, not Andrew Cohen. Other than being cc'd  
22 on this I'm not --

23 Q Did you review this document that was  
24 included in the email when you were cc'd?

25 A Maybe. I can't say. It's 2012.

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Category	Value (approximate percentage)
1	40%
2	85%
3	100%
4	25%
5	75%
6	95%
7	65%
8	100%
9	95%
10	55%
11	100%
12	95%
13	55%
14	100%
15	90%
16	15%
17	100%
18	100%
19	90%
20	95%
21	85%
22	50%

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Q Do any of Moosylvania's posts on General Cigar's social media accounts for Cohiba, did they ever link to a social media account for the Cuban Cohiba cigar?

A Did they ever -- can you repeat that for me, please?

(The reporter read the requested material.)

BY MR. FRANK

Q Social media accounts.

A No, we would not have linked to a Cuban social account.

Q Would any of Moosylvania posts on General Cigar's social media accounts for Cohiba include hashtag referencing Cuba?

A To my knowledge, no.

Q Would they ever include a hashtag referencing Fidel Castro?

A I highly doubt it. That's something that a client would not have been okay with. I would say to my knowledge, no.

1 Q And why not?

2           A    Just not something that we would need to  
3 talk about.)

4 Q Why would -- let's go one by one. Why would  
5 Moosylvania's posts on General Cigar's social media  
6 accounts for Cohiba not include a link to a Cuban --  
7 to a social media account for a Cuban Cohiba cigar?

8           A       Because we're the Cohiba USA brand.   We  
9       don't talk about Cuban Cohibas.

10 Q Why not?

11                    A        We don't.

12 Q Do you have a reason why?

13           A       It's not our brand directive.   I don't know  
14       what else to say outside of that.)

Age Group	Percentage
15	100%
16	100%
17	100%
18	100%
19	100%
20	100%
21	100%
22	100%
23	100%
24	100%
25	100%
26	100%
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86	100%
87	100%
88	100%
89	100%
90	100%
91	100%
92	100%
93	100%
94	100%
95	100%
96	100%
97	100%
98	100%
99	100%
100	100%

24 Q You mentioned previously a conversation in  
25 2012, were there ever any other concerning --

1           A       That was an approximate date, too.

2           [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

10                       (Exhibit 7 was marked for

11                       identification.)

12       BY MR. FRANK

13           Q       Exhibit 7, MS0008443.   Can you identify this

14       document, please?

15           A       An email from Julia Ahrens.

16           Q       To who?

17           A       To me and also included Sean McCormick and

18       Greg Vogler and Lisa Keller, in the cc line.

19           [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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Horizontal bar chart showing the percentage of respondents for various categories. The categories are listed on the left, and the percentages are shown as horizontal bars on the right. The categories are: 1. [Redacted], 2. [Redacted], 3. [Redacted], 4. [Redacted], 5. [Redacted], 6. [Redacted], 7. [Redacted], 8. [Redacted], 9. [Redacted], 10. [Redacted], 11. [Redacted], 12. [Redacted], 13. [Redacted], 14. [Redacted], 15. [Redacted], 16. [Redacted], 17. [Redacted], 18. [Redacted], 19. [Redacted], 20. [Redacted], 21. [Redacted], 22. [Redacted], 23. [Redacted], 24. [Redacted], 25. [Redacted], 26. [Redacted], 27. [Redacted], 28. [Redacted], 29. [Redacted], 30. [Redacted], 31. [Redacted], 32. [Redacted], 33. [Redacted], 34. [Redacted], 35. [Redacted], 36. [Redacted], 37. [Redacted], 38. [Redacted], 39. [Redacted], 40. [Redacted], 41. [Redacted], 42. [Redacted], 43. [Redacted], 44. [Redacted], 45. [Redacted], 46. [Redacted], 47. [Redacted], 48. [Redacted], 49. [Redacted], 50. [Redacted], 51. [Redacted], 52. [Redacted], 53. [Redacted], 54. [Redacted], 55. [Redacted], 56. [Redacted], 57. [Redacted], 58. [Redacted], 59. [Redacted], 60. [Redacted], 61. [Redacted], 62. [Redacted], 63. [Redacted], 64. [Redacted], 65. [Redacted], 66. [Redacted], 67. [Redacted], 68. [Redacted], 69. [Redacted], 70. [Redacted], 71. [Redacted], 72. [Redacted], 73. [Redacted], 74. [Redacted], 75. [Redacted], 76. [Redacted], 77. [Redacted], 78. [Redacted], 79. [Redacted], 80. [Redacted], 81. [Redacted], 82. [Redacted], 83. [Redacted], 84. [Redacted], 85. [Redacted], 86. [Redacted], 87. [Redacted], 88. [Redacted], 89. [Redacted], 90. [Redacted], 91. [Redacted], 92. [Redacted], 93. [Redacted], 94. [Redacted], 95. [Redacted], 96. [Redacted], 97. [Redacted], 98. [Redacted], 99. [Redacted], 100. [Redacted].

[illegible]

1 [REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

14 Q We're lawyers, we're all about semantics.

15 A I understand.

16 Q Does General Cigar have a website dedicated  
17 to Cohiba cigars?

18 A Yes, sir.

19 Q Do you know what company or person first  
20 developed that website?

21 A Which website are we talking about? There  
22 have been different iterations of the website. The  
23 one that is existing right now?

24 Q Is there a URL that General Cigar has used  
25 for a website dedicated to Cohiba?

1 A Yes.

2 Q URL means, the web address?

3 A Correct.

4 Q For the record. One web address, what is  
5 the web address?

6 A Cohibacigars.com, I think or Cohiba or  
7 Cohibacigars.com.

8 MR. AVIGAD: Before your next question, it's  
9 12:35 now central time so I was wondering what you  
10 want to do about lunch.

11 MR. FRANK: Can I get through anther ten  
12 minutes, 15 minutes, is that good? It's 12:37. Let's  
13 stop here.

14 (A lunch recess was taken.)

15 BY MR. FRANK

16 Q So we were talking about the General Cigar  
17 Cohiba website.

18 A Yes.

19 Q Do you know what person or company first  
20 developed the website?

21 A I don't know who developed the original  
22 website, no.

23 Q Did Moosylvania first develop the website?

24 A We did not develop the original website.

25 Q Does Moosylvania do any work related to

1 General Cigar's Cohiba website?

2 A We did.

3 Q What did it do?

4 A We did a redesign of their website, so new  
5 creative look and feel.

6 Q When did that happen?

7 A 2015.

8 Q And other than the redesign, has Moosylvania  
9 done any work for --

10 A After Square Root handed the -- transitioned  
11 the business over to us we did develop a singular  
12 landing page. It was kind of a holding page, if you  
13 will, until we had the revised Cohiba site redesigned  
14 and loaded.

15 Q And was the redesign a complete redesign of  
16 the entire web page?

17 A It was. It was. We did also talk with Rock  
18 Nation, JZ's team and Victoria and their Cohiba  
19 collaboration. We didn't design the site itself, but  
20 there was a point in time we were talking to them  
21 about that property.

22 Q Who is the Victoria to whom you're  
23 referring?

24 A Victoria McKee, excuse me.

25 Q From General Cigar?

1           A       Yes.

2           [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



1 [REDACTED]

2 [REDACTED]

3 Q And were any reports created maintaining  
4 that analytical information?

5 A The reporting would have been into the  
6 comparable quarterly reports like Exhibit 4 for that  
7 specific time period if we did reporting. That's what  
8 would have been included.

9 Q Would any of the Google analytical  
10 information been presented out separately?

11 A Not to my knowledge, no.

12 Q Was -- other than in the quarterly reports  
13 was the statistic information about the Cohiba.com  
14 website given to General Cigar?

15 A Not to my knowledge.

16 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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Q Is there any disclaimer on General Cigar's Cohiba Facebook page indicating that it's -- Cohiba cigars is not associated with the Cuban Cohiba cigar?

8

A Are we switching from website to Facebook now?

9

10

Q Yeah.

11

A I'm not sure if that stipulation is stated anywhere.

12

13

(Exhibit 8 was marked for

14

identification.)

15

BY MR. FRANK

16

Q I'm marking this Harris Exhibit 8, Bates CT0033025 to CT0033041. This is a printout of the About section of the General Cigar's -- of the about -- please identify this document.

17

18

19

20

A It's a page on the Cohiba Facebook page.

21

Q Do you know whose Facebook page this is?

22

A Cohiba's.

23

Q Do you know, is this the General Cigar

24

Cohiba?

25

A It appears to be, yes.

1 Q Do you know at whose suggestion this text  
2 was added?

3 A I do not.

4 Q Have you ever discussed this text with  
5 General Cigar?

6 A I have not.

7 Q To your knowledge, was there ever any  
8 internal discussion at Moosylvania about this  
9 disclaimer?

10 A I don't know.

11 [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

18 Q Do you know if there's any disclaimer on  
19 General Cigar's website indicating that a Cohiba cigar  
20 is not associated with the Cuban Cohiba cigar?

21 A I don't know what's in the terms and  
22 conditions in the legalese in the footer of the  
23 website, so I don't know.

24 [REDACTED]  
[REDACTED]

1 [REDACTED]

2 [REDACTED]

3 Q Do you know if there's any disclaimer on  
4 General Cigar's Cohiba website indicating that there's  
5 no association between General Cigar's Cohiba cigar  
6 and the Cuba Cohiba cigar?

7 A I don't know.

8 Q Do you know if there's any disclaimer on the  
9 General Cigar's Cohiba website indicating there is no  
10 licensing agreement between the company that makes the  
11 Cuban Cohiba cigar and the company that makes -- and  
12 General Cigar?

13 A I don't know.

14 Q Do you know if there's any disclaimer on the  
15 General Cigar's Cohiba website indicating that there  
16 is no legal relationship between the company that  
17 makes Cuban Cohiba cigar and General Cigar?

18 A I do not know.

19 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1

2 [REDACTED]  
3 Q We're talking about the website now,  
4 Cohiba.com.

5 A Correct. We keep switching back and forth  
6 with the Facebook. I wanted to be clear. Again, I  
7 don't know.

8 Q Do you know why disclaimer -- strike that.  
9 Is there any disclaimer on General Cigar's  
10 Cohiba pages on Twitter, Instagram or Facebook where  
11 you are indicating that Cohiba cigars are not  
12 associated with the Cuban Cohiba cigar?

13 A I'm not sure.

14 Q Do you know if there ever was one?

15 A Not to my knowledge. I don't know. I'm not  
16 sure.

17 Q Is there any disclaimer on General Cigar's  
18 pages for its Cohiba page -- its Cohiba pages on  
19 Twitter, Instagram, Facebook or YouTube indicating  
20 that there's no licensing agreement between the  
21 company that makes the Cuban Cohiba cigar and General  
22 cigar?

23 A I don't know.

24 Q Do you know if there ever was one?

25 A I don't.



1           Q     Do you know if there's any disclaimer on  
2     General Cigar's Cohiba pages on Twitter, Instagram  
3     Facebook or YouTube indicating that there is no legal  
4     relationship between the company that makes the Cuban  
5     Cohiba cigar and General Cigar?

6           A     I'm not sure.

7           Q     To your knowledge, has there ever been one?

8           A     I don't know.

9           Q     To your knowledge has there ever been any  
10    post on General Cigar's Cohiba Twitter account with  
11    any one of these disclaimers?

12          A     I don't know.

13          ■     [REDACTED]

■     [REDACTED]

■     [REDACTED]

■     ■     [REDACTED]

■     ■     [REDACTED]

■     [REDACTED]

■     [REDACTED]

■     ■     [REDACTED]

■     ■     [REDACTED]

■     [REDACTED]

■     ■     [REDACTED]

■     ■     [REDACTED]

■     [REDACTED]

█ [REDACTED]

█ [REDACTED]

3 Q Do you know --

4 Do you know what a Facebook page name is?

5 A Yes.

6 Q What is it?

7 A So the Facebook page name is the actual name

8 that sits on the front of the site. So the front

9 pages. The delineation there's a URL structure and

10 then the page name or page --

11 Q What does URL structure mean?

12 A URL structure is your www.Facebook.com/ and

13 then your name.

14 Q That's the web address?

15 A Correct. Correct.

16 Q What is the page name? How is that

17 different than the page number?

18 A They can actually vary. You might have a

19 vanity URL. You might have a given URL depending on

20 what Facebook gives you. You can edit those to be

21 something very specific. And you can also establish

22 your physical page number just like an individual

23 would with their home personal name.

24 Q Do you know what the original page name for

25 Cohiba's Facebook -- Cohiba's -- I'm sorry, strike

1 that.

2 Do you know what the original page name for  
3 General Cigar's Cohiba Facebook page was?

4 A To my knowledge I don't know what it was,  
5 but I know that we addressed this at some point early  
6 in 2012, 2013 time frame.

7 Q Do you know if General Cigar ever wanted to  
8 change its page name for its Cohiba Facebook page?

9 A I'm not sure if the directive of making  
10 those names universal started internally or if that  
11 was a directive. I'm not sure.

12 (Exhibit 9 was marked for  
13 identification.)

14 BY MR. FRANK

15 Q We marked this Exhibit 9. MS007433 to  
16 MS0007436. Can you please identify this document?

17 A It's an email from Aaron -- well, Aaron  
18 Stevens. Email chain or thread.

19 Q Turn to the last page.

20 A Yes.

21 Q One of the emails on this email chain  
22 states -- appears to be the first email, we --

23 A Top of the page or the bottom of the page?

24 Q We're talking about 7436 at the very bottom.

25 A Thank you.

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1 [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
11 Q Can you review this email chain, please?  
12 A I am right now.  
13 Q Does this refresh your recollection at all  
14 about this issue?  
15 Let me ask you this: Do you know if anyone  
16 else at the time of this email opened the Facebook  
17 name for just Cohiba?  
18 [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Sturm Reporting Services, Inc.

15 MR. FRANK: I'll put this together. 10.

18 BY MR. FRANK

21 A Assuming these are one document?

314.780.2816

1 MR. AVIGAD: Did you label the 14488?

2 MR. FRANK: We can make them 10 and 11.

3 (Exhibit 11 was marked for  
4 identification.)

5 MR. FRANK: We're making 729 10 and 11 on  
6 the other one.

7 BY MR. FRANK

8 Q Let's look at 11 first.

9 A Okay.

10 Q Can you identify Exhibit 11?

11 A It's a Moosylvania produced document called  
12 Cohiba Facebook name options. March 2013.

13 Q Do you know if this document was ever sent  
14 to General Cigar? You can look at Exhibit No. 10 to  
15 see if that refreshes your recollection.

16 A I assume these are tied together. I can't  
17 say definitively without seeing the physical email. I  
18 don't know which this PDF attachment is. This is  
19 Cohiba. This is Cohiba Facebook naming options. So  
20 the email says Facebook naming options so I'll assume  
21 this is the attachment.

22 MR. DEUTSCH: Objection.

23 BY MR. FRANK

24 Q The production from Moosylvania did not  
25 include attachments together with the emails.



1 MR. FRANK: I'm not saying all documents  
2 weren't produced. They weren't produced together.

3 BY MR. FRANK

4 Q Are you -- review Exhibit No. 11.

5 A Uh-huh.

6 Q Are you familiar with this document?

7 A I don't recall.

8 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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5           A       It does not.

8 BY MR. FRANK

11           A       It's an email from me, Michael Harris.

[illegible]

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Sturm Reporting Services, Inc.

25 Q Do you know what milestones are?

1 A I'm not sure what milestones are, no.

2 Q Is it a standard feature of Facebook pages  
3 for companies?

4 A That I'm not sure of.

5 Q Turn to 30 -- 33031.

6 A Thirty-one?

7 Q Thirty-four, sorry.

8 A Thirty-four. Make sure we're on the same  
9 page 34.

10 Q It says Cohiba goes worldwide 1982.

11 A I see that.

12 Q Do you know when this information was first  
13 added to General Cigar's Cohiba Facebook page?

14 A I don't.

15 MR. DEUTSCH: Objection.

16 BY MR. FRANK

17 Q Can you please identify the information  
18 that's on 33034?

19 A Yes. We're looking at Cohiba's Facebook  
20 page under the tab About. And on the About section it  
21 appears that this is under a milestone. I think  
22 that's what we were looking at. And titled Cohiba  
23 worldwide.

24 MR. DEUTSCH: Objection. Move to strike.

25



1 BY MR. FRANK

2 Q Have you ever seen this information before?

3 A Not to my knowledge.

4 (Exhibit 13 was marked for  
5 identification.)

6 BY MR. FRANK

7 Q Can you please identify this document?

8 MR. DEUTSCH: Can you give Bates numbers?

9 MR. FRANK: Should be MS0014400. Is that  
10 right?

11 MR. AVIGAD: Yes. To 14406.

12 THE WITNESS: It's a Moosylvania produced  
13 document called Cohiba Facebook milestones.

14 BY MR. FRANK

15 Q Have you seen this document before?

16 A Just from what we just reviewed on the  
17 document or the exhibit, is that 8 that we just looked  
18 at? Yes.

19 Q But other than that, are you familiar with  
20 this document?

21 A Not -- I don't know.

22 Q Do you know if this document was ever sent  
23 to General Cigar?

24 A I do not, no.

25 Q Can you turn to 14403?

4 MR. FRANK: Yes.

[illegible]

Sturm Reporting Services, Inc.

24 Q Do you know if there are currently any  
25 milestones that are publicly available -- that are on

1 (Exhibit 14 was marked for  
2 identification.)

3 BY MR. FRANK

4 Q We've identified -- can you read that Bates  
5 number?

6 MR. AVIGAD: 21167.

7 BY MR. FRANK

8 Q Fourteen. Can you please identify this  
9 document?

10 A It's an imagine. I don't know other than  
11 that where it came from.

12 Q Do you know if this image was ever posted to  
13 General Cigar's Cohiba Facebook page?

14 A I do not.

15 Q Do you know who created this document?

16 A Fourteen?

17 Q Exhibit 14.

18 A I do not know.

19 Q Do you know if this document was ever shared  
20 with General Cigar?

21 A I do not know.

22 Q Do you know if there's ever any discussion  
23 with General Cigar about this document?

24 A I'm not sure.

25 MR. FRANK: Mark this as 15 and 16.

1 (Exhibits 15 and 16 were marked for  
2 identification.)

3 BY MR. FRANK

4 Q Take a second to review that.

5 A Do you need this back?

6 Q Exhibit 16. Is that right?

7 MR. FRANK: That's 15 and 16. Emails are  
8 16.

9 BY MR. FRANK

10 Q Exhibit 16 is a series of emails between  
11 May 18 and July 25th, 2012.

12 A I can confirm that, yes, that's what I'm  
13 seeing.

14 Q Can you identify these emails?

15 A Outside of what you just did there's a  
16 series of emails in here between Account and Creative.

17 Q These are Bates MS0012252. Just confirm  
18 that with me, Mr. Harris.

19 A 12252.

20 Q MS0012600?

21 A Yep.

22 Q MS0012512?

23 A Yes.

24 Q MS008558?

25 A Yes.

1 Q MS0008594 to 95?

2 A Yes.

3 Q Is that right? MS0008356 to 57; is that  
4 right?

5 A Yes.

6 Q 58, sorry.

7 A Yes.

8 Q 59. 59?

9 A Yes.

10 Q And MS0012268 to 69. Is that accurate?

11 A Yes.

12 MR. FRANK: Is that what you have?

13 MR. DEUTSCH: I'm just going through them.

14 You can proceed.

15 BY MR. FRANK

16 Q Can you --

17 A Are we starting on a particular one?

18 Q Yeah. Can you -- do these emails concern a  
19 particular topic?

20 A Going through them. I see a lot of  
21 references to the Facebook milestones.

22 Q Can you look at 12512. From 12512 on are  
23 you copied on these emails?

24 A I am.

25 Q There's an attachment on 8558. Do you know

1 if Exhibit -- that one?

2 A This one?

3 Q Exhibit 13.

4 A Thirteen.

5 Q Is the PDF included in email 8558?

6 A I'm not sure.

7 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



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17 Q Do you know what this tweet refers to?

18 MR. DEUTSCH: Objection.

19 THE WITNESS: We're speculating, I don't

20 know.

21 BY MR. FRANK

22 Q Were you copied on this email chain?

23 A I am copied on this email chain.

24 Q Go back to Exhibit -- I think that's it for

25 16. Go back to 8.

1 Q Did General Cigar ever attempt to remove  
2 this comment from its Facebook page?

3 MR. DEUTSCH: Objection.

4 THE WITNESS: I do not know.

5 BY MR. FRANK

6 Q Did Moosylvania ever attempt to remove this  
7 comment from General Cigar's Cohiba Facebook page?

8 A I do not know.

9 Q Did General Cigar ever request that  
10 Moosylvania remove this comment from General Cigar's  
11 Cohiba Facebook page?

12 A I do not know. 8's done?

13 Q Yeah, all of them. On to the fun stuff.

14 (A short recess was taken.)

15 BY MR. FRANK

16 Q Do you know who Sean Carter is, properly  
17 known as Jay-Z?

18 A Yes.

19 Q Did he ever work at General Cigar on its  
20 Cohiba cigar?

21 A Collaboration between Jay-Z and Cohiba, yes.

22 Q What was that? Can you describe that  
23 collaboration?

24 A Did we call -- I can't even think of the  
25 name of it right now. He had DuSeay and then he

1 had -- the name of the cigar escapes my mind right  
2 now, but we, being General Cigar and Jay-Z, built a  
3 cigar together from the ground up utilizing Jay-Z's  
4 design. He worked on the design equity and everything  
5 behind it.

6 Q Do you know why General Cigar selected  
7 Jay-Z?

8 A I don't, actually. I don't know if he  
9 reached out to them or if they reached out to him.  
10 I'm not sure.

11 Q Are you --

12 A Comador. Cohiba Comador.

13 Q That was my next question if you're familiar  
14 with the Cohiba Comador. What is that?

15 A A collaboration between Jay-Z and General  
16 Cigar.

17 Q Was that cigar released to the public?

18 A It was.

19 Q When it was released to the public did Jay-Z  
20 make a post on Facebook concerning the release?

21 A That, I don't know. So the Comador cigar --  
22 earlier we talked about there was some offshoot work  
23 with Jay-Z and Rock Nation. They managed completely  
24 separate social entities outside of the standard -- or  
25 the banded Cohiba page that General Cigar operated day

1 to day. It doesn't mean that there wasn't some cross  
2 pollination between the two, but Rock Nation handled  
3 the Comador page in particular. So I'm not sure if  
4 Jay-Z ever posted on the Comador page.

5 MR. FRANK: Introduce this as 17.

6 (Exhibit 17 was marked for  
7 identification.)

8 BY MR. FRANK

9 Q MS006288 to 89.

10 A Uh-huh.

11 Q Can you identify this document, please?

12 A It's an email from Sean McCormick. He was a  
13 community manager at Moosylvania.

14 Q Who does he send this email to?

15 A To me, Michael Harris. It also has Norty  
16 Cohen and Andrew Cohen.

17 Q What's the date?

18 A December 13, 2013.

19 Q And does this refresh your recollection  
20 whether or not Jay-Z made a post to Facebook  
21 concerning the release of the Cohiba Comador cigar?

22 A There isn't an image in here from what  
23 appears to be Jay-Z's page introducing the Comador  
24 cigar.

25 [REDACTED]

15 (Exhibit 18 was marked for  
16 identification.)

18 Q Are you familiar with the edit history  
19 feature of Facebook?

22 MR. FRANK: Yes, correct.

24 Q This is 18. Can you please identify this  
25 document?



1 Q Does General Cigar have a marketing  
2 department?

3 A Yes.

4 Q There someone in General Cigar marketing  
5 department who's in charge of Cohiba marketing?

6 A A brand manager, yes.

7 Q Are there other people at General Cigar that  
8 work on Cohiba marketing?

9 A In some form or capacity. I'm sure there's  
10 multiple hands that touch the brand.

11 Q Do you know about how many?

12 A I don't know a definitive number, no.

13 Q In your experience with -- strike that.

14 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

25



Row	Short Bar Length (approx. %)	Long Bar Length (approx. %)
1	5	85
2	5	90
3	5	100
4	5	30
5	5	65
6	5	85
7	5	30
8	10	95
9	5	95
10	5	100
11	5	65
12	5	70
13	5	30
14	10	85
15	5	90
16	5	90
17	5	95
18	5	75
19	5	65
20	5	70
21	5	30
22	10	95
23	5	30
24	5	60
25	10	55

[illegible]

25

1

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

11 BY MR. FRANK

12 Q We've got to go back to 8. It's my last  
13 page now. I don't know what it is for you. Go to 40.

14 A Forty.

15 Q It's 33040. Do you have it?

16 A Yeah.

17 Q Can you look this over. In particular the  
18 fourth paragraph down that begins: We will review all  
19 posts and we reserve the right.

20 General Cigar's Facebook states: We will  
21 review all posts and reserve the right to remove those  
22 that do not adhere to our guidelines; is that correct?

23 A That's what it says, correct.

24 Q Is it your understanding that this warning  
25 appears on General Cigar's Facebook page?



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1 [REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED] [REDACTED]

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[REDACTED] [REDACTED]

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[REDACTED] [REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED] [REDACTED]

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1 A Yes.

2 Q Can you please identify this document?

3 A One second, please. This is a creative  
4 brief for a new product launch. This is something  
5 that the brand managers would have filled out with  
6 some capacity and then Moosylvania would have taken  
7 that document and repurposed for our own internal  
8 documentation to team briefings.

9 Q With you say brand manager, brand manager of  
10 General Cigar?

11 A Yeah. They would give us a project in some  
12 capacity, whether they actually filled out a document  
13 like this or they sent us some sort of email, phone  
14 call perhaps saying this is the project I have for  
15 you. This is the subsequent document that would be  
16 created from that.

17 Q This would be a document created by General  
18 Cigar or Moosylvania?

19 A It depends. Sometimes a brief like this,  
20 like Exhibit 20, would actually be filled out  
21 personally by a brand manager and sent to the  
22 Moosylvania team to utilize. Sometimes we would  
23 actually formulate and fill out this brief on our own  
24 accord based on other information they've given us.  
25 I'm not sure exactly who this came from, but it is a

1      brief.

2            Q      Information on a brief like this would come  
3      from General Cigar?

4            A      Yes.    We would utilize a lot of the  
5      information.

6            Q      Would any of the information be generated by  
7      Moosylvania or the information would come from General  
8      Cigar?

9            A      The information would start with General  
10     Cigar the client, our client.

11          Q      Are you familiar with this document?

12          A      I do remember the Cohiba Nicaragua launch.

13          Q      Is this a final version of a document?

14          A      Oh, that, I don't know.

15          Q      Would these documents be up for different  
16     drafts?

17          A      They would.    If there was changes made it  
18     was probably made directly to this draft, but yeah.    I  
19     don't think it would be version one, two, three, four,  
20     five.

21          Q      I'm sorry, you don't think there would be  
22     version --

23          A      Yeah, I would think this is final version.

24          ■      [REDACTED]  
[REDACTED]

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Q Can you please produce that copy? That was  
not produced as part of Moosylvania production.

8

A If we have still have it. I'll look. I  
can't guarantee whether or not we have that, but, yes.

10

Q Do you know who sent that report to you?

11

A The research?

12

Q The research.

13

A I don't. I don't recall who sent that

14

through.

15

Q It says here on the second page --

16

A Uh-huh.

17

Q Do you see next to why should they believe?

18

A Yes.

19

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22           A     Yes, this appears to be a client brief. So  
23     this is the difference I was talking about where they  
24     would provide a source of information. So this was a  
25     brief that was written by Ed Layman. The primary

[illegible]

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17 MR. FRANK: This is 22.

20 BY MR. FRANK

23 MR. DEUTSCH: Bates, please.

24 MR. FRANK: We're at 22, is that correct?

25 THE WITNESS: Yes.



Row	Bar Length (approx. % of total width)
1	95
2	50
3	25
4	45
5	90
6	98
7	15
8	30
9	92
10	65
11	45
12	98
13	80
14	90
15	55
16	65
17	95
18	75
19	30
20	25
21	98
22	45
23	95
24	98

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█

12

MR. FRANK: Twenty-three.

13

(Exhibit 23 was marked for

14

identification.)

15

BY MR. FRANK

16

Q We marked this as Exhibit 23 GENC003729

17

through 56. Can you please read, review and identify

18

this document?

19

A This is a brand brief. It was developed by

20

Andres Maturen, if I said that correctly. He was, at

21

the time, the brand manager of Cohiba on the General

22

Cigar side. This was provided to us roughly Q3, Q4,

23

so probably August to December sometime of 2016, if

24

memory serves. And it discussed his larger plans,

25

what he was hoping to accomplish in the 2017 year.

1 Q And this was a document given by Mr. Maturen  
2 to Moosylvania?

3 A Yes.

4 Q Have you reviewed this document?

5 A We have.

6 Q Prior to today?

7 A Yes. We had an actual briefing phone call  
8 with Andres where he walked us through every page of  
9 the brief.

10 Q When did that occur?

11 A Whenever we received that. Sometime late  
12 2016. Between August and December.

13 Q If you turn to 3736, please. It says: What  
14 are the key insights?

15 A Yes, I see that.

16 MR. AVIGAD: 3737?

17 MR. FRANK: 3736.

18 THE WITNESS: Sorry.

19 BY MR. FRANK

20 Q What are the key insights at the top?

21 A Yeah.

22 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



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21 (Exhibits 24 and 25 were marked for  
22 identification.)  
23 MR. FRANK: 24 MS007235 to 36 and as Exhibit  
24 25, MS0006364 to 66.

25

1 BY MR. FRANK

2 Q Are you familiar with Ian Spanier?

3 A Yeah. Ian is a photographer that Victoria  
4 McKee would work with on a number of projects for  
5 General Cigar.

6 Q Do you know which projects he worked on?

7 A Off-the-cuff, no. I just know that Victoria  
8 tapped into his resource quite a bit.

9 Q Can you name any one project that he worked  
10 on?

11 A I believe Ian did help out on the existing  
12 Cohiba website. I believe he helped produce a video.  
13 The launch of Cohiba Nicaragua. I'm pretty sure that  
14 was Ian. He also worked on outside of the Cohiba. He  
15 recently did something for -- you asked, but he did  
16 for Hoyo de Monterrey. It was a collaboration between  
17 General Cigar Hoyo and AJ Fernandez, did a video.

18 Q Can you please review and identify Exhibit  
19 24?

20 A Yes. So it's an email from Victoria McKee  
21 to Corene Margherio. I am cc'd on the email.  
22 Victoria's talking about a photo shoot with Ian  
23 Spaniard.

24 [REDACTED]  
[REDACTED]

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21 MR. FRANK: Mark these 26.

22 (Exhibit 26 was marked for

23 identification.)

24 BY MR. FRANK

25 Q MS00120011 to 12. The next one is MS004489.



1 A Correct.

2 Q The next one is MS00198687.

3 A Yep.

4 Q And then MS0010846.

5 A Yep.

6 Q And then MS0011169.

7 A Yep.

8 Q MS0011544.

9 A Yes.

10 Q This is Exhibit 26. Can you please review  
11 these documents and identify them?

12 A Majority of documents. First three 12001 to  
13 12012, 004489, 11986 to 11987, all of those appear to  
14 be emails. Each from a different person. Of the  
15 final three pages, 10846, 11169 and 11544 are images,  
16 pictures. I'm not sure those are attachments or where  
17 those came from.

18 [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

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[illegible]

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7 BY MR. FRANK

8 Q Do you know a company named Survey Monkey?

9 A Survey Monkey, I know of the company. I  
10 don't know if we've used Survey Monkey. I don't know  
11 if we used Survey Monkey on anything for Cohiba. I'm  
12 not sure. I want to say that we have for CAO, maybe,  
13 but I don't recall.

14 (Exhibit 27 was marked for  
15 identification.)

16 BY MR. FRANK

17 Q Mark as Exhibit 27. MS0004002 to MS0004003.

18 A Uh-huh.

19 Q Can you please identify this document?

20 A It's an email from former Moosylvania  
21 employee Erin Bucko to, among others, a Gary Scheer,  
22 who I believe works on the events team for General  
23 Cigar. Cc'd another group of six of General Cigar  
24 Moosylvania folks.

25

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1           A       I have never been deposed before. Thank  
2   you.

3                   MR. FRANK: Do you want to take a break? I  
4   can review.

5                               (A short recess was taken.)

6                               CROSS-EXAMINATION

7                               BY MR. DEUTSCH

8           Q       My name is Andy Deutsch. I'm the attorney  
9   for General Cigar Company. I have a fairly limited  
10   amount of questions to ask you on matters that were  
11   touched on during Mr. Frank's deposition with you.

12                   At the outset you talked about initial  
13   discussions with General Cigar regarding, and I'm  
14   summarizing what I recall you saying, but if I'm  
15   wrong, please correct me, not confusing General Cigar  
16   Cohiba cigar with the Cuban Cohiba cigar. Do you  
17   recall testifying as to that?

18           A       Early on, I do believe that was discussed.

19           Q       Were those discussions and instructions ever  
20   changed by General Cigar between the time you had that  
21   discussion and today?

22           A       No.

23           Q       Have you ever been instructed in any way or  
24   form to attempt to create an association between the  
25   General Cigar's Cohiba cigar and the Cuban Cohiba

1 cigar?

2 A No.

3 Q Have you ever been instructed to create an  
4 association between the General Cigar Cohiba cigar and  
5 Cuba?

6 A No.

7 Q Have you ever been retained to testify as an  
8 expert in any field in litigation?

9 A No.

10 Q You have not been retained either by General  
11 Cigar or by Cubatabaco in this litigation, correct?

12 A Correct.

13 Q You wouldn't hold yourself out as an expert  
14 to testify neutrally as to advertising marketing in  
15 any litigation?

16 A I would not.

17 Q Could you look to Harris 5. These are Zuum  
18 reports, as I recall.

19 A Yes.

20 Q There are tabs on these, or are those tabs  
21 for my benefit?

22 A Okay.

23 Q You recall questions about this exhibit by  
24 Mr. Frank, correct?

25 A Yes.

1 Q Mr. Frank directed your attention, I think,  
2 to the first tabbed page, which is MS30118 and there  
3 is an entry from the person named Dylan Pozzy saying I  
4 smoke Cohiba on a daily basis, nothing but Cuban. Do  
5 you see that?

6 A I do see that.

7 Q Do you know what metric, if any, Zuum uses  
8 to develop its conclusion that this is your page's  
9 most engaging fan post?

10 A So they would classify engagement as a like,  
11 comment or share.

12 Q Immediately below that there seems to be  
13 some symbols, all of which have the number zero next  
14 to them?

15 A Correct.

16 Q Do you know what those symbols reference?

17 A I do.

18 Q Left to right.

19 A The first one has a icon that has E over F.  
20 That's your engagement-to-fan ratio. So that's  
21 engagements per number of fans that you have. That's  
22 reading zero. There is the next one is E, that is  
23 engagements overall, that's zero. The little thumbs  
24 up is your likes. At zero. Little thought bubble is  
25 a comment. That's a zero. And the cyclical arrow is

1 a share. That's zero.

2 Q Do you know how this post would have been  
3 selected as the most engaging fan post by Zuum?

4 A I do not.

5 Q Is there any evidence of engagement  
6 whatsoever on this page of that post?

7 MR. FRANK: Objection.

8 THE WITNESS: I read zeros.

9 BY MR. DEUTSCH

10 Q Do you know if Mr. Pozzy is in the United  
11 States or some other country?

12 A I do not.

13 Q Can you tell from the Zuum reports where any  
14 particular fan post is located?

15 A I'm not sure.

16 Q Direct your attention to the next tab where  
17 there is a -- this is 30190 and there's a -- you were  
18 asked about a post from a Daniel Arriola?

19 A Yes, I see it.

20 Q Do you see that one?

21 A Yes.

22 Q On the indications below the picture and the  
23 statement, what do those indicate, if you can tell me?  
24 Again, it's the data.

25 A That the icons again?

1 Q Yes.

2 A The engagement-to-fan rate ratio is  
3 .022 percent. They had three total engagements of  
4 which --

5 MR. FRANK: Objection.

6 THE WITNESS: Three were likes. Zero  
7 comments, zero shares.

8 BY MR. DEUTSCH

9 Q In your estimation is that a particularly  
10 high level of engagement for a post?

11 MR. FRANK: Objection.

12 THE WITNESS: That depends on the brand.

13 BY MR. DEUTSCH

14 Q Do you know whether Mr. Arriola is located  
15 in the United States or some other country from the  
16 information provided here?

17 A I do not know.

18 Q If you can turn to the next tab, which is  
19 MS30176 there's a picture of a post -- actually, a  
20 photograph with the name Carlos Gutierrez. Do you see  
21 that?

22 A Yes.

23 Q There's no data or engagement on that; is  
24 that correct? As far as you can tell from the  
25 document you were shown.

1           A       I would concur that statement.

2           Q       And there is no way to tell whether  
3       Mr. Gutierrez is located in the United States or some  
4       other country; is that correct?

5           A       Not to my knowledge.

6           Q       If you could then turn to the next tabbed  
7       page.   There is a post from a Bryce Shuman.

8           A       Yes.   I see it.

9           Q       What do the data points underneath that  
10      photograph indicate?

11          A       So this is -- so the engagement-to-fan ratio  
12      is .173 percent.   Twenty-three total engagements, 21  
13      of which are likes, two are comments, zero shares.  
14      And then there is a -- the total line item, then there  
15      is a new line item which appears to be the 24-hour  
16      totals, and it provides the engagement-to-fan ratio of  
17      1.58 and then engagements of 21.

18          Q       Are you able to tell from this page where  
19      Mr. Shuman was located when this photograph was taken?

20          A       I am not.

21          Q       Can you tell from this page whether he is a  
22      person located in the United States or some other  
23      country?

24          A       I can not.

25          Q       Can you tell -- I'm sorry.   Go to the next

1 page, please, that's tabbed. That would be MS30162.

2 A Yes.

3 Q And this is a post with the name Lee Brun,

4 B-R-U-N, correct?

5 A Yes.

6 Q Is any data given here for engagement of

7 this post by --

8 A Not that I can see.

9 Q And do you know where this photograph was

10 taken?

11 A I do not.

12 Q Do you know whether Mr. Brun is someone

13 located in the United States or in some other country?

14 A I do not.

15 Q Finally, if you look at MS30148, that is, am

16 I correct, again, a picture from Mr. Shuman that we

17 discussed earlier?

18 A Correct.

19 Q From the information you have seen on these

20 tabbed pages, do you know whether any of the

21 individuals in question actually have any confusion as

22 to the origin of the General Cigar's Cohiba cigar?

23 A I do not.

24 Q Do you know whether they have any confusion

25 as to the manufacture of the General Cigar's Cohiba

1 cigar?

2           A       I'm not sure.

3 Q Put that one away. Look at Harris 6. And  
4 direct your attention to page that is marked MS10824.

5                    A        Yes.

6

Row	Bar Length (approx. % of total width)
1	95
2	100
3	35
4	25
5	95
6	40
7	15
8	100
9	90
10	95
11	10
12	30
13	95
14	100
15	15

22 Q Now if you look at Harris 7, please. This  
23 is MS8443. You were asked about this. Let me ask you  
24 is Twitter a product that is used in many countries,  
25 not just the United States?



1 MR. FRANK: Objection.

2 THE WITNESS: I'm not sure. I would imagine

3 it is a global property like a Facebook.

4 BY MR. DEUTSCH

5 Q [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

21 BY MR. DEUTSCH

22 Q I'll direct you now to Harris 16. And you  
23 were asked about --

24 A One second.

25 Q Take your time. Just for the record what

1 to?

2 A Correct.

3 Q Harris 8.

4 MR. FRANK: Going back to 8 you said?

5 MR. DEUTSCH: Yes. Going backwards. Here's

6 Harris 8.

7 BY MR. DEUTSCH

8 Q You were asked about page 33031 on Harris 8.

9 A Uh-huh.

10 Q And in particular the comment down below  
11 references a Dave Pipher, P-I-P-H-E-R. Do you see  
12 that?

13 A Yes.

14 Q You were asked about that on direct?

15 A Yes.

16 Q Do you know if Dave Pipher is someone in the  
17 United States?

18 A I don't know.

19 Q Do you know if he lives in the U.S. or some  
20 other country?

21 A I do not know.

22 Q Do you know whether that statement evidences  
23 the thought processes of a U.S. consumer?

24 A I'm not sure.

25 MR. FRANK: Objection.

1 Q Do you know if it was made by someone who  
2 maintained the Jay-Z website?

3 A I'm not sure.

4 Q Do you know whether the person that made  
5 that link is a cigar smoker or potential cigar smoker?

6 A I'm not sure.

7 Q Do you know if they knew when they were  
8 originally linking to a page controlled by the  
9 manufacturer of the Cohiba Cuban cigar?

10 A I'm not sure.

11 Q Do you have any knowledge how many people,  
12 if any, clicked through on the original version the  
13 Cohiba link on the original version?

14 A I do not.

15 Q Do you know how many clicked through on the  
16 Cohiba Red Dot link?

17 A I do not.

18 Q So as far as you know, you don't know if  
19 anyone went from this original posting to the Cuban  
20 Cohiba website?

21 A Correct.

22 Q Please direct your attention to Harris 20.

23 Of the -- just for clarity, do you know whether Harris

24 20 was created by Moosylvania or created by General

25 Cigar?

1           A     This is a Moosylvania document that we have  
2     internally. I'm not sure -- again, I'm not sure if  
3     the client being General Cigar physically filled this  
4     out and sent it to us or if Moosylvania did it  
5     internally.

6           Q     Was this document made available to general  
7     consumers in the United States?

8           A     No, it would not have been.

9           Q     This was entirely an internal document?

10          A     It is and was.

11          ■     [REDACTED]

■     [REDACTED]

■     [REDACTED]

■     [REDACTED]

■     [REDACTED]

■     [REDACTED]

■           ■     [REDACTED]

■           ■     [REDACTED]

■                   [REDACTED]

■     [REDACTED]

■           ■     [REDACTED]

■     [REDACTED]

■     [REDACTED]

■           ■     [REDACTED]

25          Q     Now, you were asked by Mr. Frank about the

3 THE WITNESS: I believe it was stated in the  
4 record we no longer use these.

6 Q Today you wouldn't be able to say whether  
7 these are accurate characterizations --

9 MR. DEUTSCH: Haven't finished yet.

11           Q     -- the target market for the General Cigar  
12     or Cuban cigar?

14 THE WITNESS: Correct.

1

2

3

4

5

6

7

8

Q Is it your understanding that Cuban Cohiba cannot be sold and marketed in the United States?

9

10

A That is my understanding.

11

Q It's your understanding that small amounts of Cuban cigars can be personally imported by people who have purchased them outside of the United States?

12

13

14

MR. FRANK: Objection.

15

THE WITNESS: I suppose if they smuggled them in.

16

17

BY MR. DEUTSCH

18

Q Direct your attention to Harris 23. This is the 2017 Execution Plan, Moosylvania Brief?

19

20

A Yes.

21

Q You were asked about this on several occasions by Mr. Frank, correct?

22

23

A Uh-huh.

24

Q I want to ask you about a page he didn't ask you about. Would you turn to page 3738.

25

4 Q Would you mind reading the page into the  
5 record?

[illegible]

Age Group	Percentage
18-24	10%
25-34	15%
35-44	25%
45-54	30%
55-64	20%
65-74	10%
75-84	5%
85+	2%

10 Q You were shown Exhibit 26. It's my -- just  
11 to clarify my understanding. Is the case that  
12 Moosylvania, that's the -- this is 26?

13                    A        Yes.

Horizontal bar chart showing the number of respondents for each question. The y-axis lists questions 1 through 14. The x-axis represents the number of respondents, with a scale from 0 to 14. The bars are black. Questions 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14 all have 14 respondents. Question 14 is the only one with a label 'Q' next to it.

Question	Number of Respondents
1	14
2	14
3	14
4	14
5	14
6	14
7	14
8	14
9	14
10	14
11	14
12	14
13	14
14	14



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MR. DEUTSCH: That's all my questions.

10

MR. FRANK: A couple additional.

11

REDIRECT EXAMINATION

12

BY MR. FRANK

13

Q I guess I go back to Exhibit 5.

14

A Which one was that?

15

Q The Zuum report.

16

A Okay. Got it.

17

Q In Mr. Deutsch's cross-examination of you,

18

he referred to certain indications below the post

19

listed under your page's most engaging fan page; is

20

that correct?

21

A Correct.

22

Q Do you know for certain that the information

23

provided below the post is an accurate representation

24

of the engagements, shares, likes, or any other

25

statistic that's actually related to this post?

1           A     According do how Zuum reports on that, that  
2     would be their representation of the post.

3           Q     Right. But do you have any -- do you know  
4     that this is an accurate representation of the  
5     information on Facebook?

6           A     I can not definitively confirm that without  
7     comparing a Facebook source with some Zuum source, if  
8     that's what you're asking.

9           Q     Correct. Mr. Deutsch asked whether or not  
10    the individuals who posted -- this individual who  
11    posted on 30198 was located within the United States.  
12    Is that correct?

13          A     One second here.

14          Q     Daniel Pozzy. Last one.

15          A     Okay. Say that again.

16          Q     Mr. Deutsch asked whether there is any  
17    information included in this post that Dylan Pozzy was  
18    located in the United States?

19          A     Not that I can tell.

20          Q     Even if Dylan Pozzy were not located within  
21    the United States, would persons within the United  
22    States be able to view this post?

23          A     They would.

24          Q     Let's go to the next 30190. Same question.  
25    Mr. Deutsch asked whether or not there was any

1 indication that Daniel Arriola was located in the  
2 United States. Even if Daniel Arriola was not located  
3 within the United States would U.S. cigar consumers,  
4 other individuals located within the U.S. be able to  
5 view this post?

6 A I believe so.

7 Q 30176.

8 A Uh-huh.

9 Q Same question for Carlos H. Guiteras. Even  
10 if Mr. Guiteras was not located in the territory of  
11 the United States, would individuals, including U.S.  
12 cigar consumers within the United States or U.S. cigar  
13 consumers outside the United States, be available to  
14 view this post on Facebook?

15 A I believe so.

16 Q We not mention that on the same page under  
17 other pages most engaging fan post, there's to the  
18 right of the image we discussed there's another post  
19 by Zigarren Welt. There's an image.

20 MR. DEUTSCH: Which page is this?

21 MR. FRANK: 3176.

22 BY MR. FRANK

23 Q Does the user profile image have an image of  
24 a cigar band to this post?

25 A It does appear so.

1 Q Are you familiar with that cigar band?

2 A Outside of the checker pattern I'm not  
3 familiar with that cigar band.

4 Q Can you read the word that it says there?

5 A E-H-I-K-E.

6 Q Ehike.

7 A Okay, okay.

8 Q Are you familiar with the symbol there, the  
9 Indian head symbol?

10 A I am not familiar with that.

11 Q Let's go to 30169.

12 A That post was in regards to Alec Bradley  
13 cigars and also in a different language after the room  
14 tour mentioned from what I can tell.

15 Q Would this post be available to U.S. cigar  
16 consumers?

17 A Yeah, I believe so.

18 Q On 30169. Post by Bryce Shuman?

19 A Uh-huh.

20 Q Mr. Deutsch asked whether Mr. Shuman was  
21 located within the United States, there's any  
22 indication Mr. Shuman was located within the United  
23 States. Even if Mr. Shuman was not located within the  
24 United States would U.S. cigar consumers be able to  
25 view this post --

1           A       I believe so, yes.

2           Q       -- on General Cigar's Cohiba Facebook page?

3           A       I believe so, yes.

4           Q       30162.   Mr. Brun.

5           A       Uh-huh.

6           Q       Even if Mr. Brun was not located within the

7       United States, would U.S. cigar consumers be able to

8       view this post on General Cigar's Facebook page for

9       its Cohiba cigars?

10          A       I believe so, yes.

11          Q       Finally 30148.   Same question for

12       Mr. Shuman.   We already discussed this, but --

13          A       Yes.

14          Q       And for all the posts we just discussed,

15       instead of having to go through it again, is there any

16       indication that the engagement, shares, comments and

17       likes indicators included in the Zuum report were an

18       accurate reflection of the actual number of

19       engagements, shares, likes and comments?

20          A       Without comparing the Zuum data to the

21       native data, I'm not sure.

22          Q       If a U.S. consumer reviews a post,

23       user-generated comments posted on General Cigar's

24       Cohiba Twitter account page, are they able to tell by

25       the post whether or not the individual who's tweeting

3 THE WITNESS: Not without doing some  
4 digging.

7 A Yes.

[illegible]

1 [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
7 Q Looking at 373 Bates GNEC003738.  
8 A On 23?  
9 Q On 23, correct.  
10 A Say that again.  
11 Q 3738.  
12 A Uh-huh.  
13 Q Mr. Deutsch directed you to this page?  
14 A Yes.  
15 Q You had indicated previously that you had a  
16 telephone call with Mr. Monotron to discuss this  
17 document; is that correct?  
18 A Yes.  
19 Q Was this page specifically discussed during  
20 that telephone call?  
21 A Again, I believe this document was  
22 discussed. To my recollection specifically, I do not  
23 recall.  
24 Q You don't recall any conversation about this  
25 page whatsoever?

1           A       Specifically this page, no.

2           [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

25                   MR. FRANK: That's it.



1 COMES NOW THE WITNESS, MICHAEL HARRIS, and  
2 having read the foregoing transcript of the deposition  
3 taken on September 14, 2017, acknowledges by signature  
4 hereto that it is a true and accurate transcript of  
5 the testimony given on the date hereinabove mentioned.

6

7

8 \_\_\_\_\_  
(MICHAEL HARRIS)

9

10

11

12 Subscribed to before me this \_\_\_\_\_ day of  
13 \_\_\_\_\_, 2017.

14

15

\_\_\_\_\_  
Notary Public

16

17

18 My commission expires:\_\_\_\_\_.

19

20 IN THE MATTER OF TRADEMARK REGISTRATION NO. 1147300 FOR  
THE MARK COHIBA

21 vs.

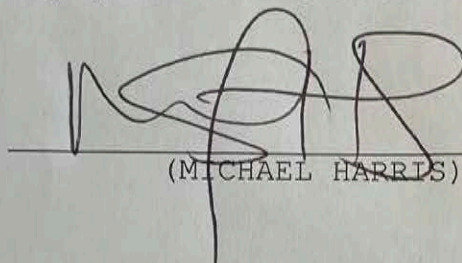
22 IN THE MATTER OF THE TRADEMARK REGISTRATION NO.  
1898273 FOR THE MARK COHIBA

23

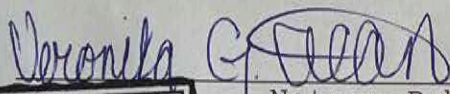
24 Reporter: Jo Ann Sturm, RPR, CSR, CCR  
Date Taken: September 14, 2017

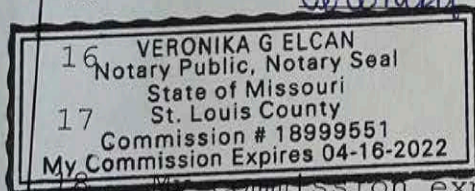
25

1 COMES NOW THE WITNESS, MICHAEL HARRIS, and  
2 having read the foregoing transcript of the deposition  
3 taken on September 14, 2017, acknowledges by signature  
4 hereto that it is a true and accurate transcript of  
5 the testimony given on the date hereinabove mentioned.

6  
7  
8   
(MICHAEL HARRIS)

10  
11  
12 Subscribed to before me this 9 day of  
13 June, ~~2017~~ 2021

14  
15  6/9/2021  
Notary Public



18 My commission expires: 04-16-2022.

19  
20 IN THE MATTER OF TRADEMARK REGISTRATION NO. 1147300 FOR  
21 THE MARK COHIBA  
22 vs.  
23 IN THE MATTER OF THE TRADEMARK REGISTRATION NO.  
24 1898273 FOR THE MARK COHIBA

25  
26 Reporter: Jo Ann Sturm, RPR, CSR, CCR  
Date Taken: September 14, 2017

1 DEPOSITION ERRATA SHEET  
2 MICHAEL HARRIS  
3 -----  
4 CORRECTION PAGE LINE  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19 \_\_\_\_\_  
20 MICHAEL HARRIS  
21 Subscribed to and before me this \_\_\_\_ day of  
22 \_\_\_\_\_, 2017.  
23 \_\_\_\_\_  
24 NOTARY PUBLIC  
25

1

2

## REPORTER CERTIFICATE

3

4

I, JO ANN STURM, RPR, CSR, CCR, do hereby  
certify that there came before me

5

MICHAEL HARRIS

6

7

8

9

who was by me first duly sworn to testify to the truth  
and nothing but the truth of all knowledge touching  
and concerning the matters in controversy in this  
cause; that the witness was thereupon carefully  
examined under oath and said examination was reduced  
to writing by me; and that this deposition is a true  
and correct record of the testimony given by the  
witness.

10

11

12

13

I further certify that I am neither attorney  
nor counsel for nor related nor employed by any of the  
parties to the action in which this deposition is  
taken; further, that I am not a relative or employee  
of any attorney or counsel employed by the parties  
hereto or financially interested in this action.

14

15

Dated September 18, 2017.

16

17

18

19

20

21

JO ANN STURM, RPR, CSR, CCR  
REGISTERED PROFESSIONAL REPORTER  
ILLINOIS CSR NUMBER: 084-002267  
MISSOURI CCR NUMBER: 716

22

23

24

25

1

2

3

4 Mr. Andrew Deutsch  
DLA Piper

5

6 Dear Counsel:

7 Pursuant to your request and at your instructions, as  
8 well as agreement between counsel, I am forwarding to  
9 you the original signature page and errata sheet from  
the deposition of MICHAEL HARRIS taken in the  
above-styled case.

10 Please have the witness read your copy of the  
11 transcript and make any changes on the errata sheet,  
not on the transcript. Please have the witness sign  
12 the signature page and errata sheet before a notary  
public.

13 Please return the original signature page and errata  
14 sheet to counsel taking the deposition.

15 Sincerely,

16

17 Jo Ann Sturm, CSR, CCR, RPR

18 /jas

19

20

21

22

23

24

25

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

Date registered: June 6, 1995

-----	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----	X	

PARTY OFFERING: PETITIONER

**Exhibit 1 to the TTAB Discovery Deposition Transcript of  
Michael Harris, dated September 14, 2017**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

Date registered: June 6, 1995

-----X  
EMPRESA CUBANA DEL TABACO, d.b.a.  
CUBATABACO,

Petitioner,

v.

GENERAL CIGAR CO., INC. and CULBRO  
CORP.,

Respondents.  
-----X



**NOTICE OF DEPOSITION**

TO ALL INTERESTED PARTIES:

PLEASE TAKE NOTICE that counsel for Petitioner will take the deposition of Michael Harris on Thursday, March 30, 2017, beginning at the hour of 10:00 a.m. (CST), before a certified shorthand reporter or other person authorized to administer oaths. Said deposition shall be taken at the offices of Spencer Fane LLP, 1 North Brentwood Boulevard, Suite 1000, St. Louis, Missouri 63105. Said deposition shall be recorded stenographically and continue from day to day until



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
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Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

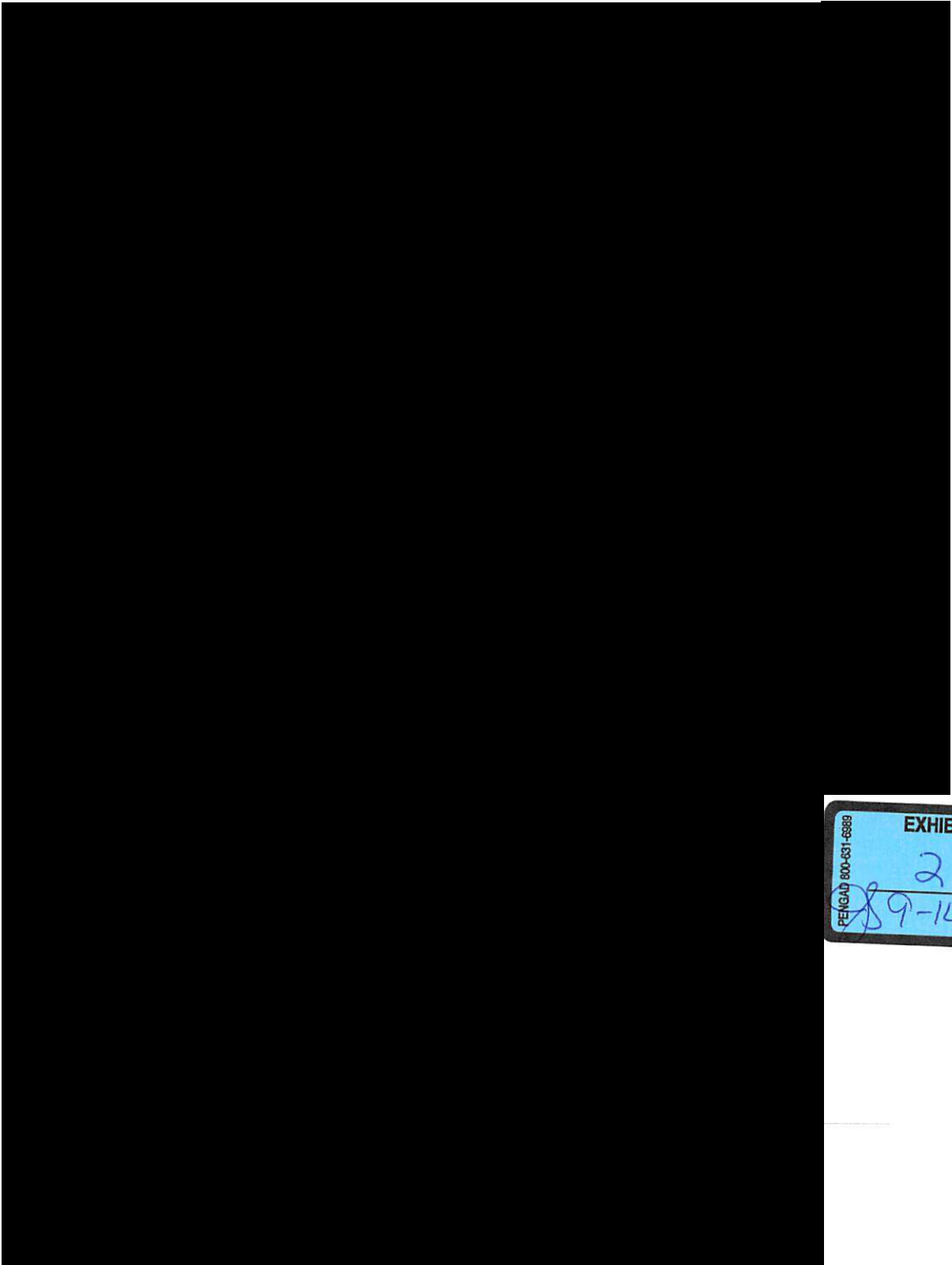
For the mark COHIBA

Date registered: June 6, 1995

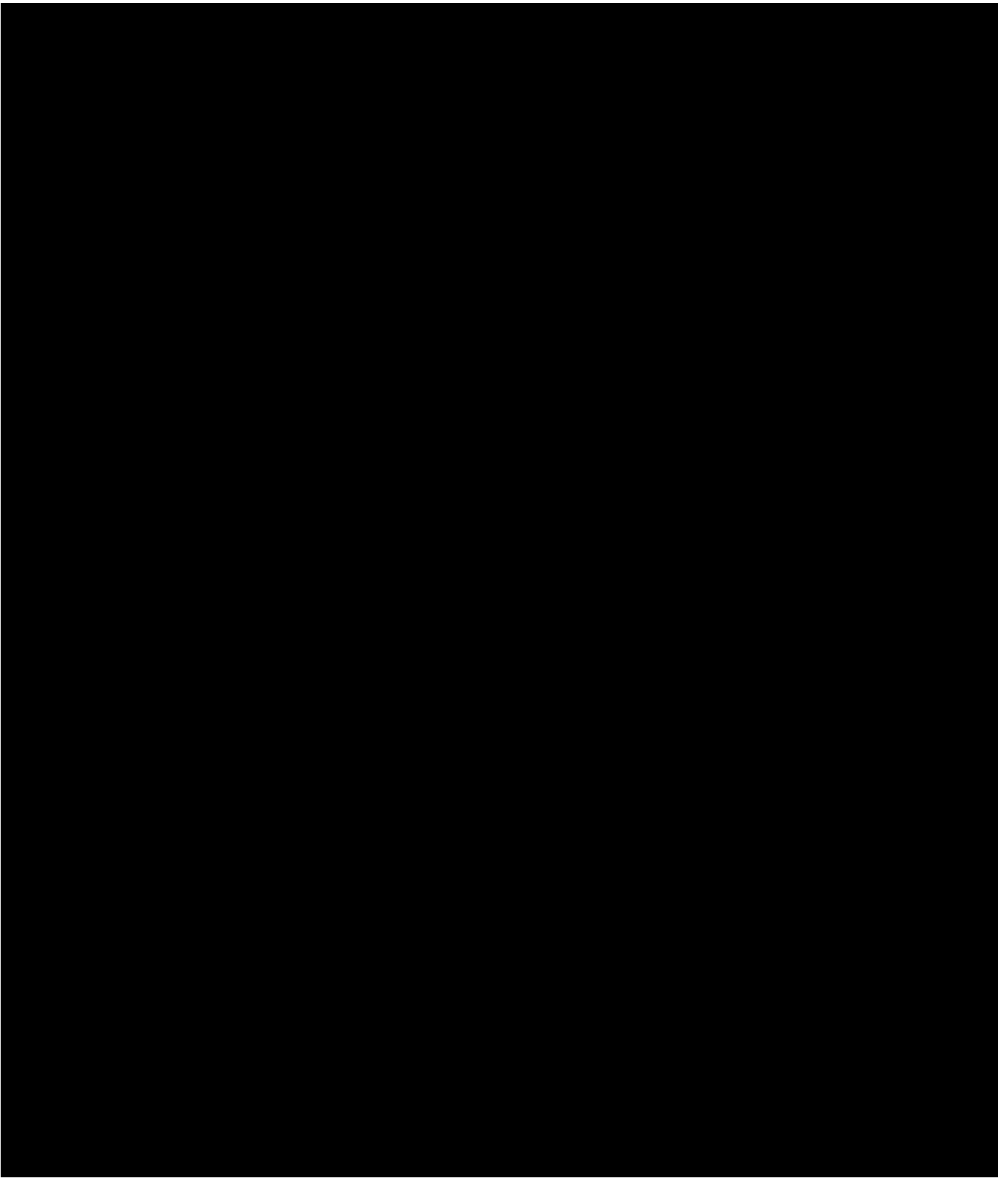
-----	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----	X	

PARTY OFFERING: PETITIONER

**Exhibit 2 to the TTAB Discovery Deposition Transcript of  
Michael Harris, dated September 14, 2017**







**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

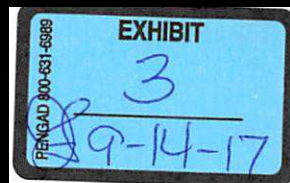
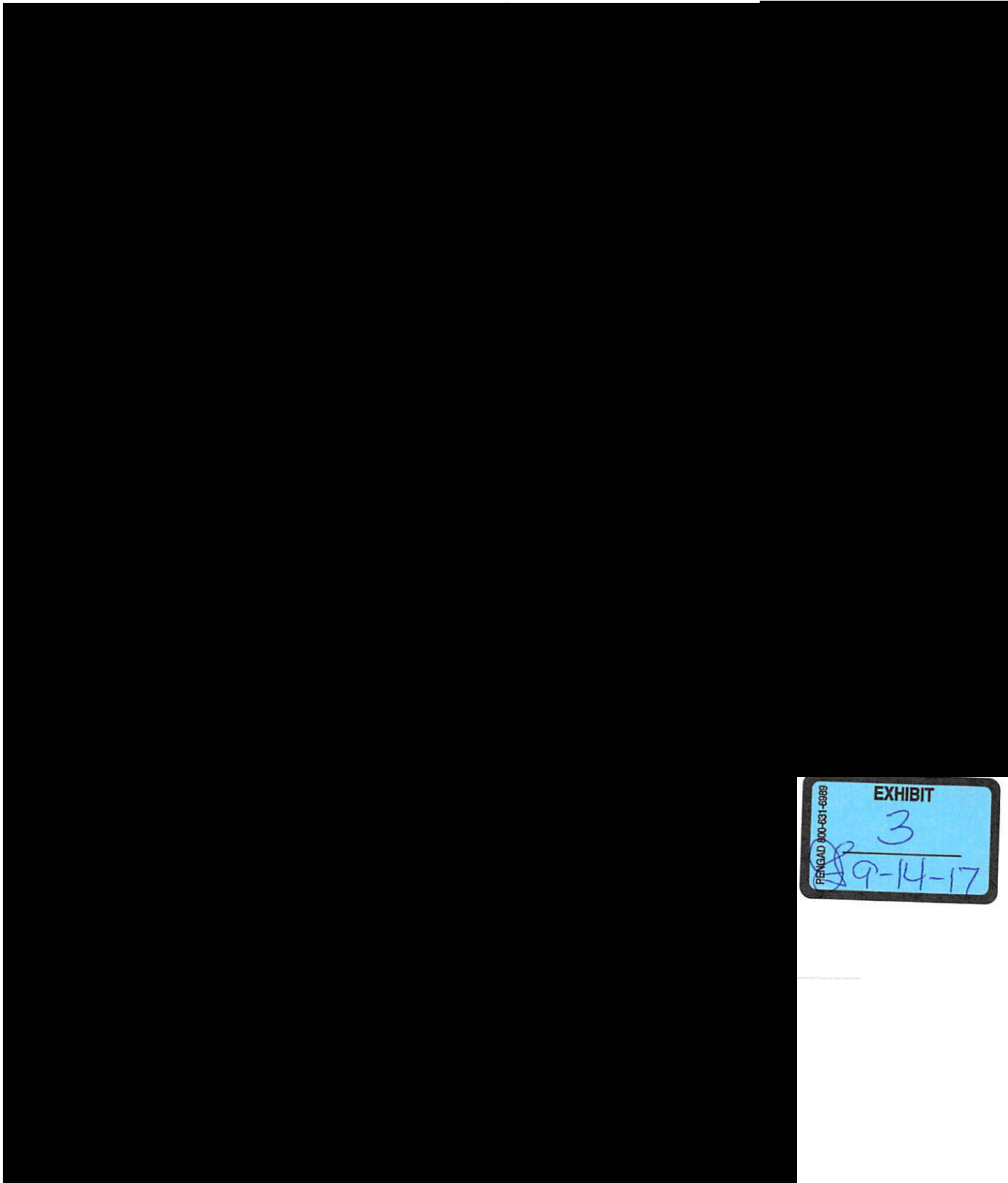
For the mark COHIBA

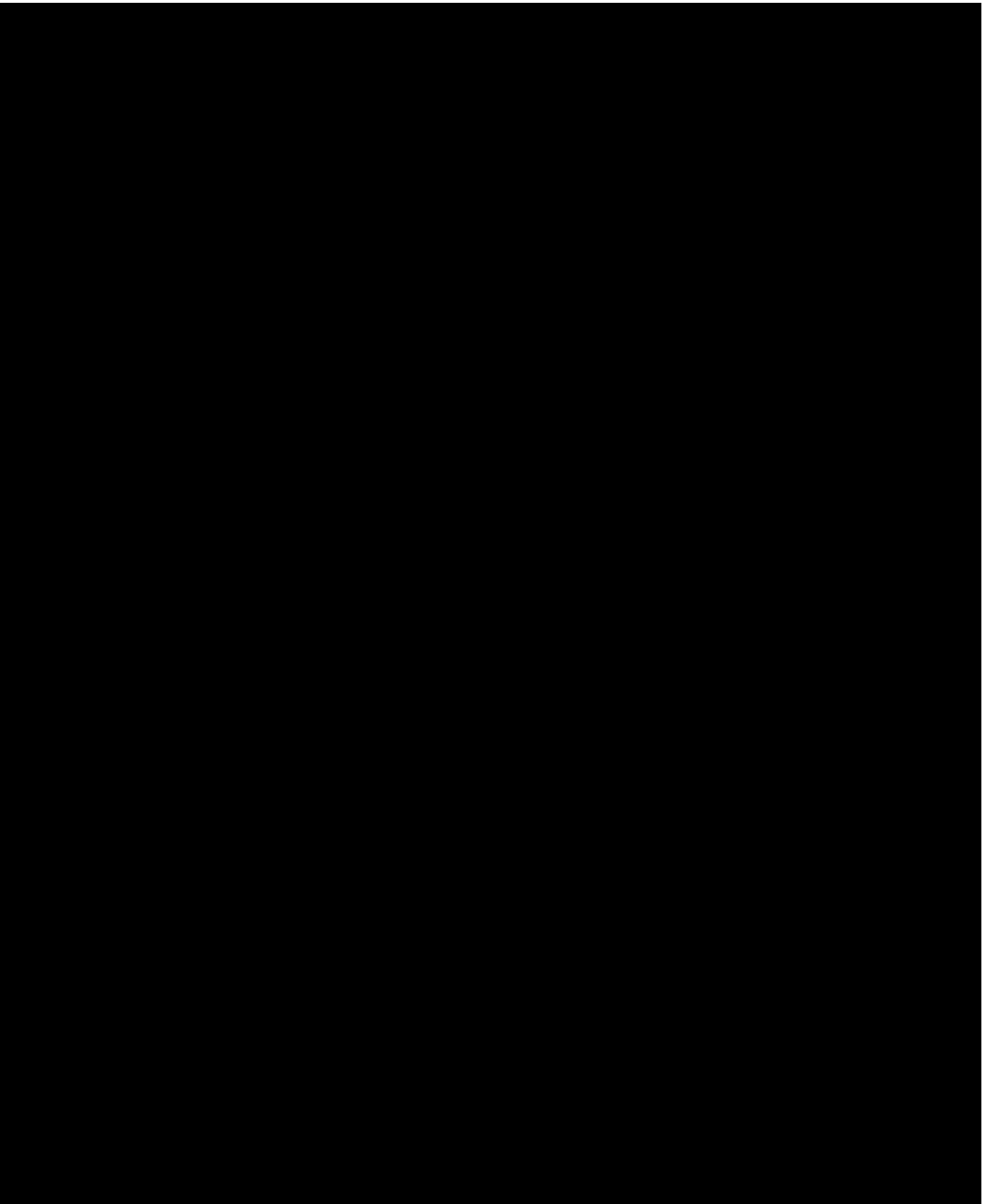
Date registered: June 6, 1995

-----	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----	X	

PARTY OFFERING: PETITIONER

**Exhibit 3 to the TTAB Discovery Deposition Transcript of  
Michael Harris, dated September 14, 2017**









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Emily Paladino  
W 314-644-7941  
C 314-757-5541

**MOOSYLVANIA**



- Staying Motivated: One Mooser's Reflection

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

Date registered: June 6, 1995

-----	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
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PARTY OFFERING: PETITIONER

**Exhibit 4 to the TTAB Discovery Deposition Transcript of  
Michael Harris, dated September 14, 2017**





























**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309  
For the mark COHIBA  
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273  
For the mark COHIBA  
Date registered: June 6, 1995

-----		X
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----		X

PARTY DESIGNATION: See Exhibit Cover Sheet

**Designated TTAB Discovery Deposition Transcript of  
Michael Harris, dated September 14, 2017  
Part 2 of 6**



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

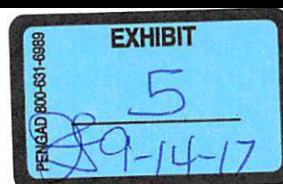
For the mark COHIBA

Date registered: June 6, 1995

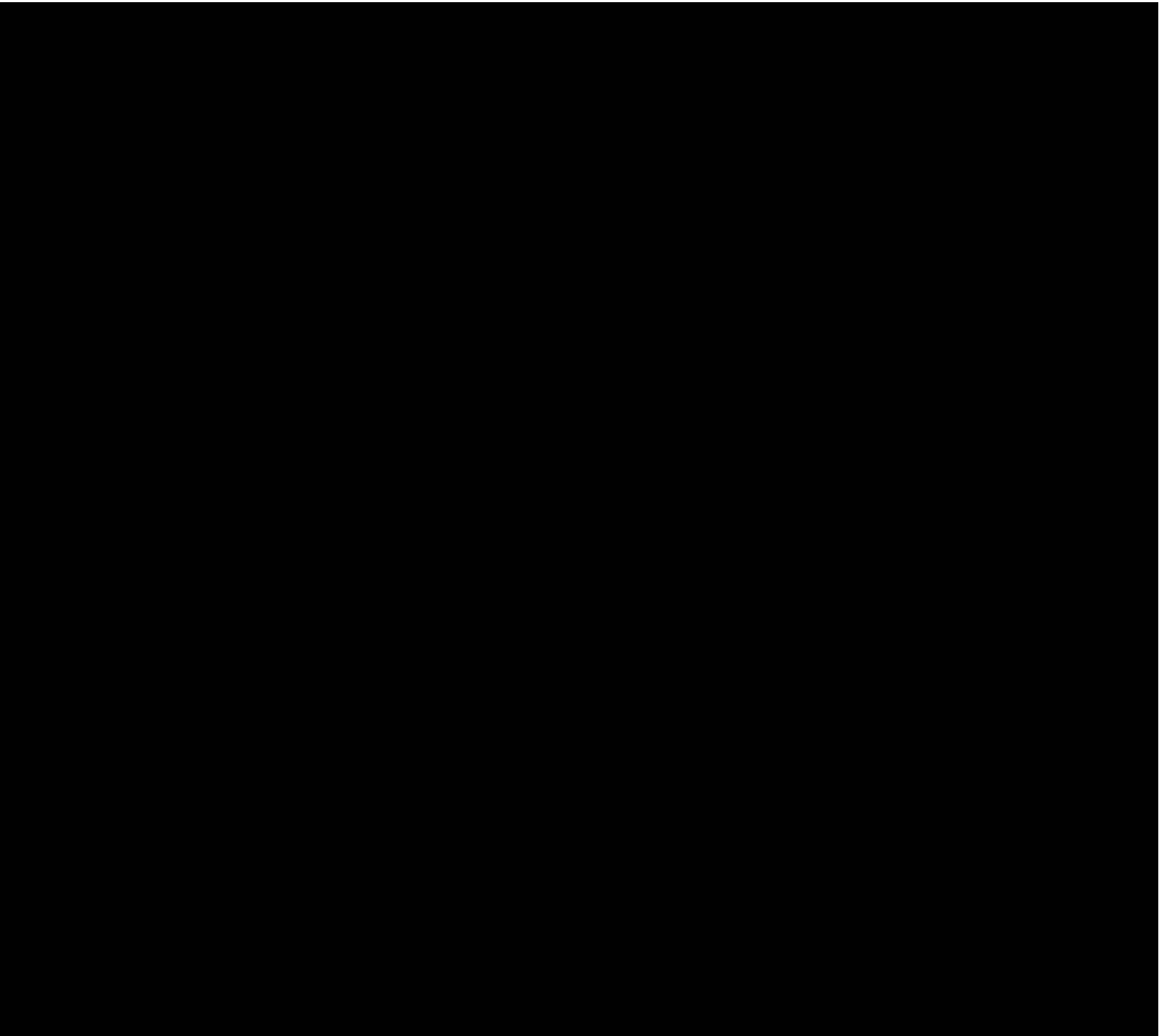
-----	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----	X	

PARTY OFFERING: PETITIONER

**Exhibit 5 to the TTAB Discovery Deposition Transcript of  
Michael Harris, dated September 14, 2017**



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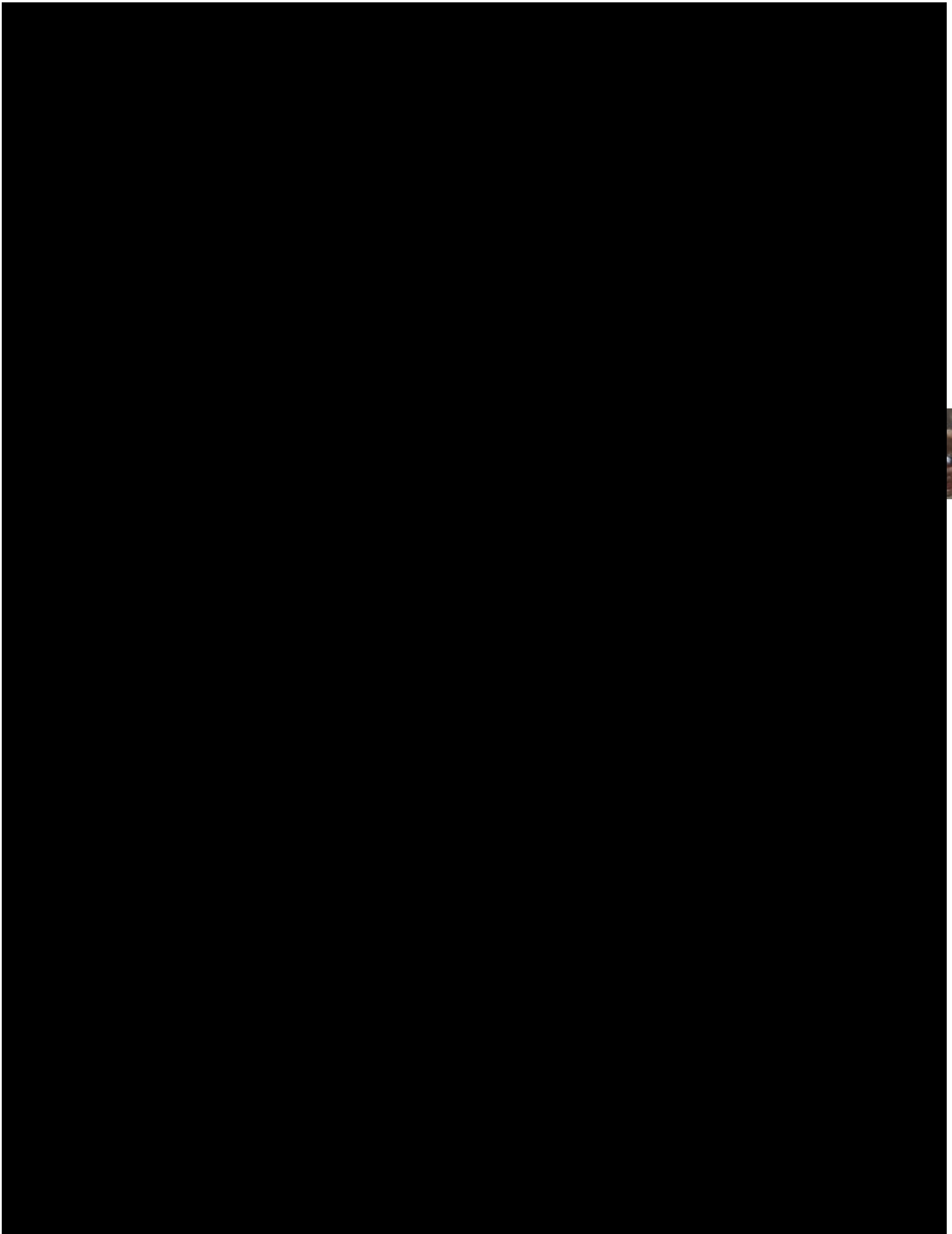






















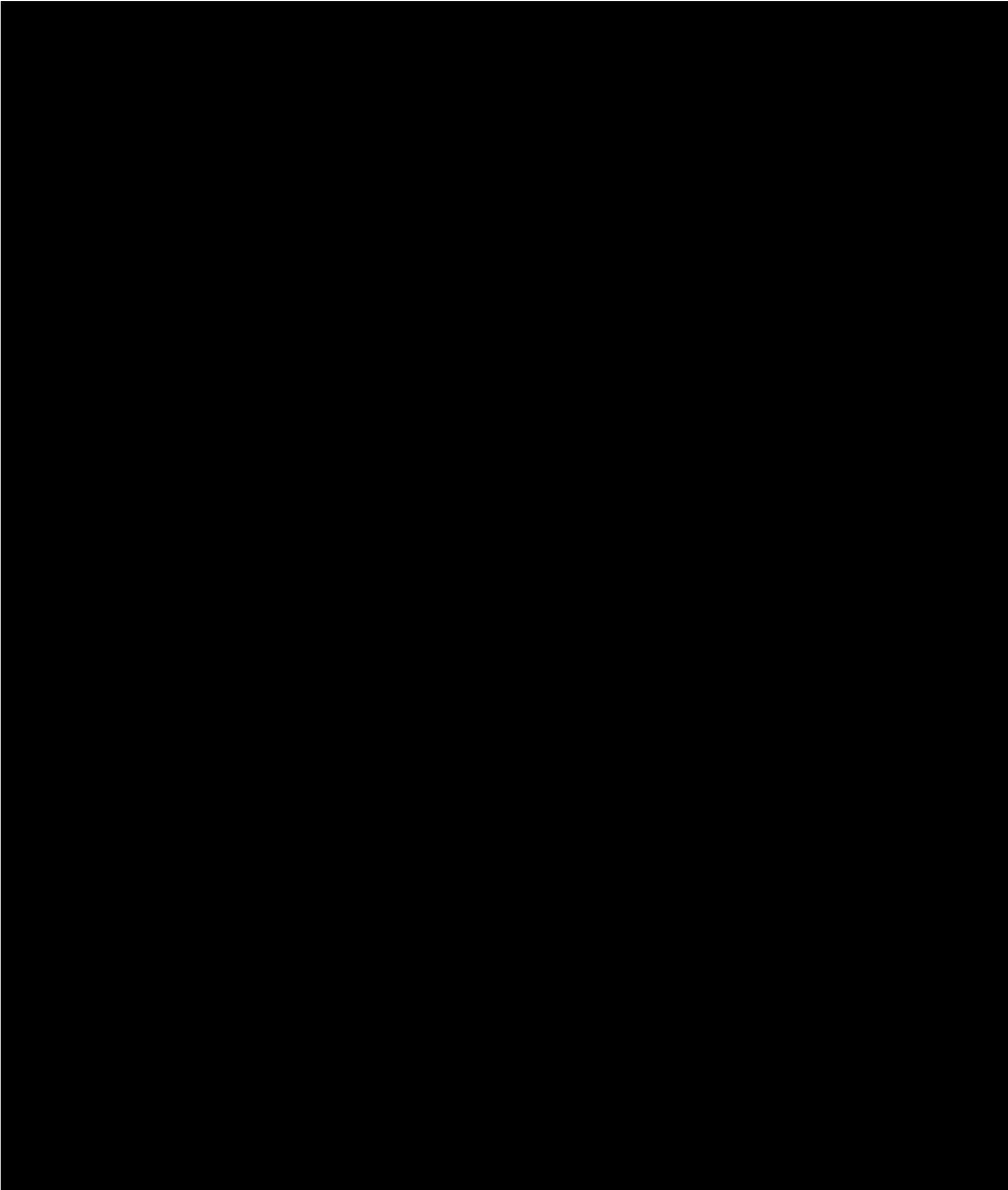






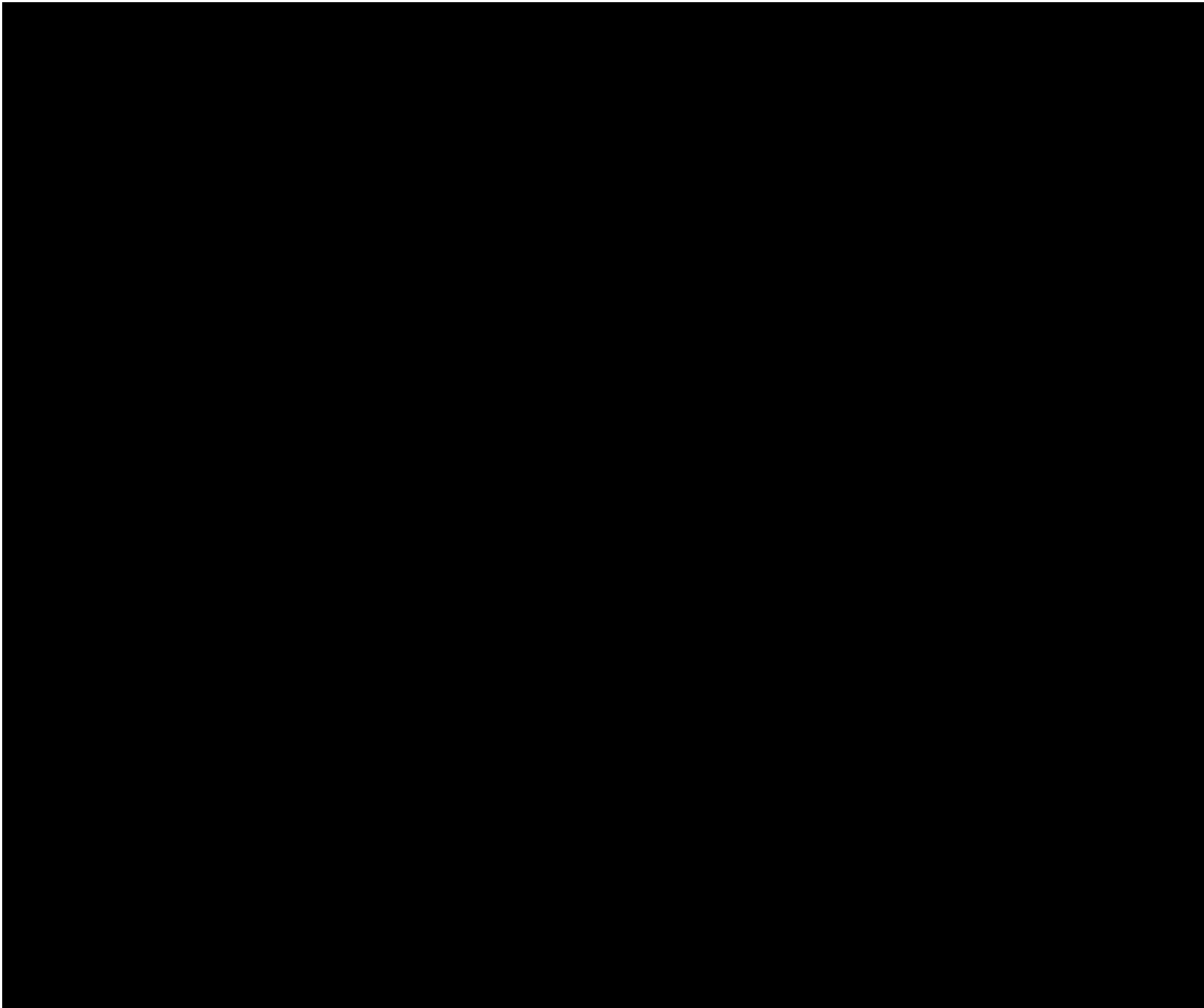
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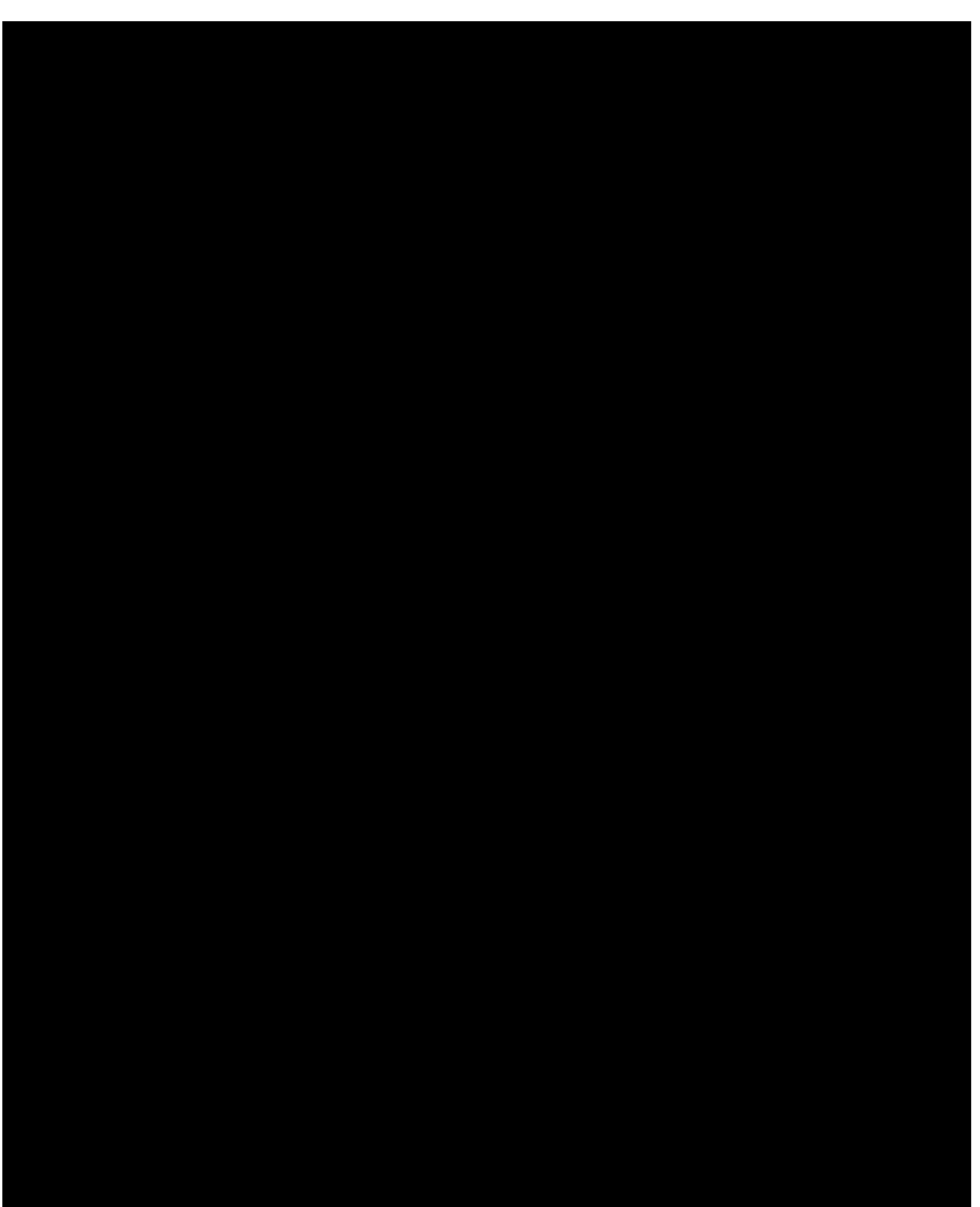










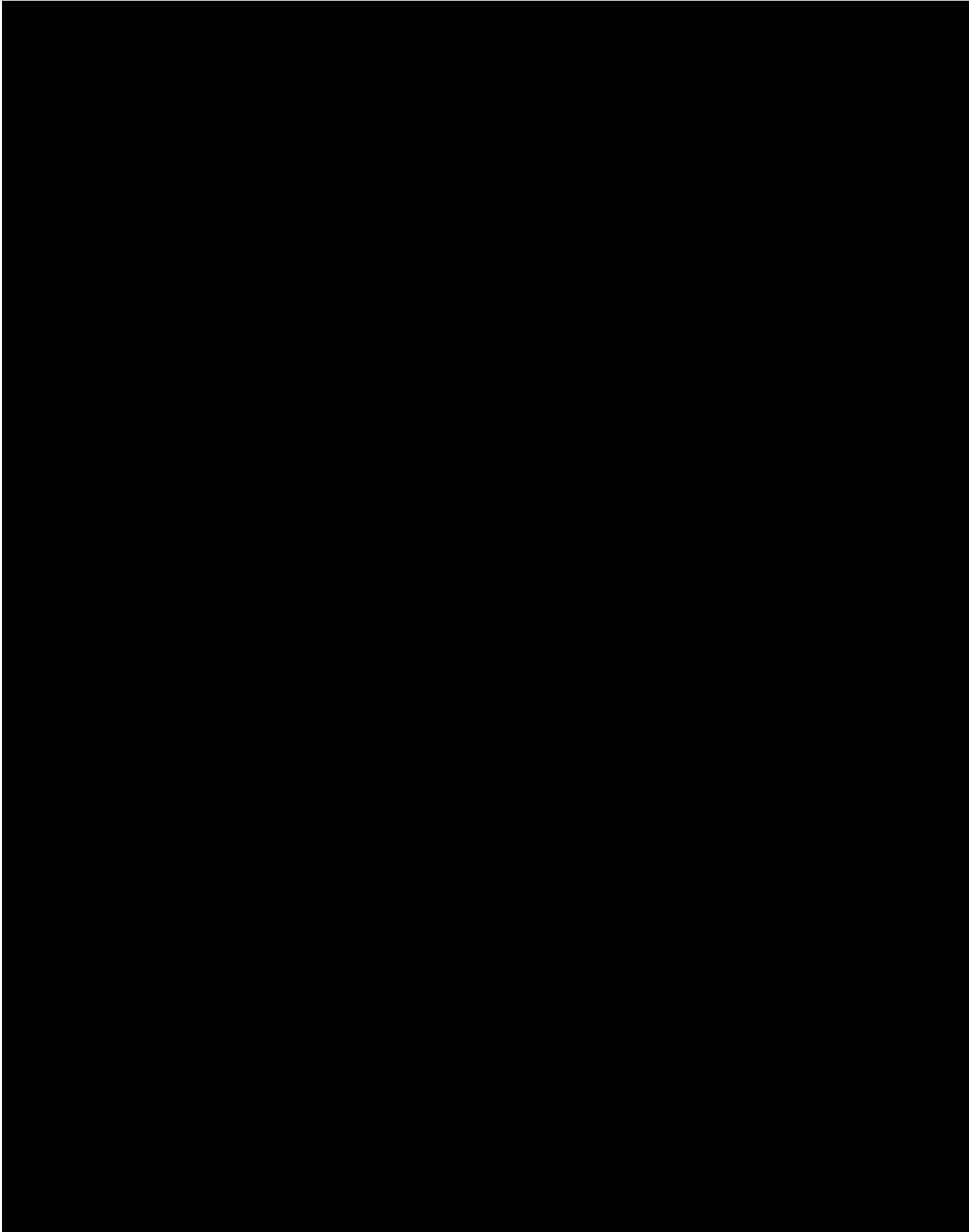






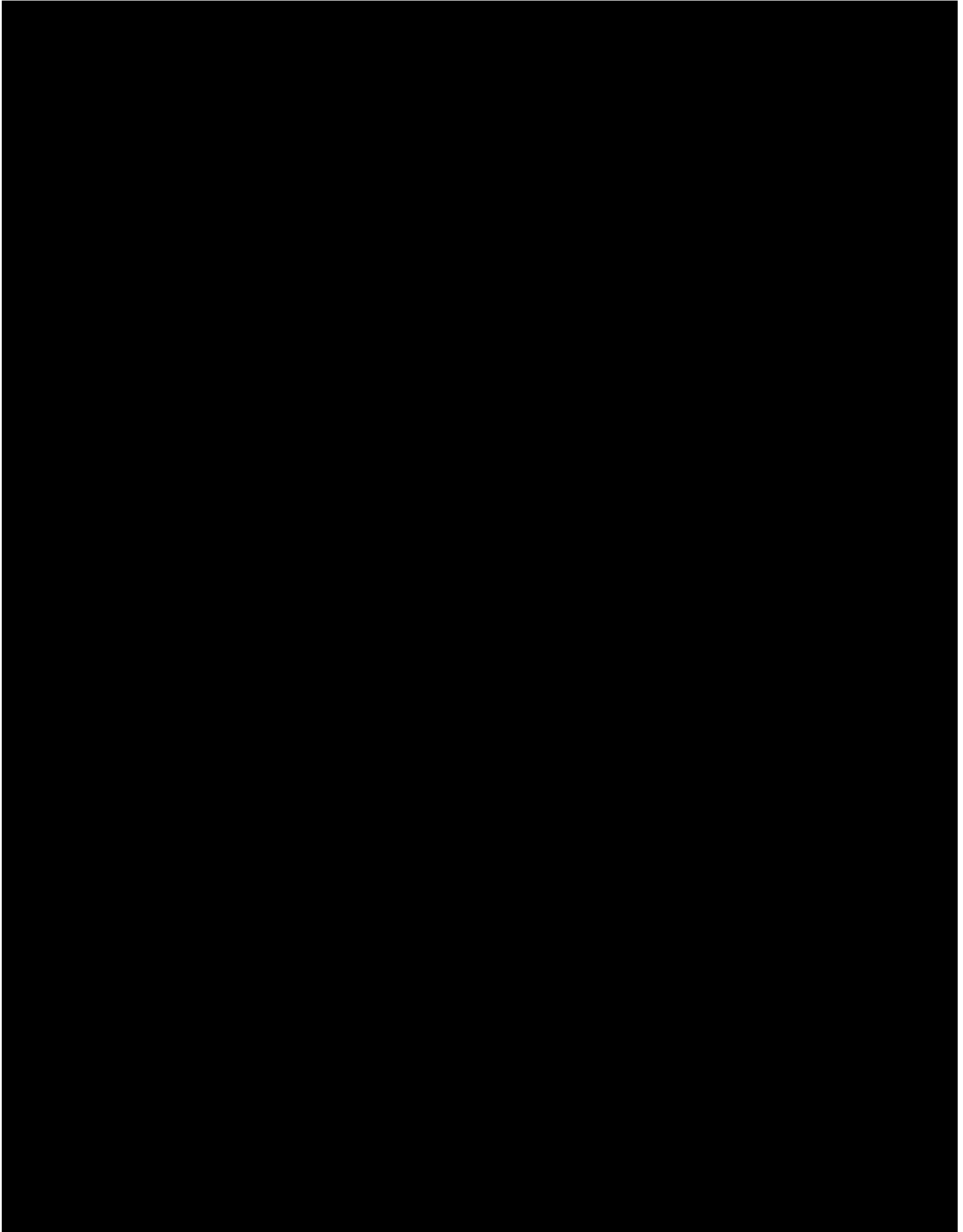


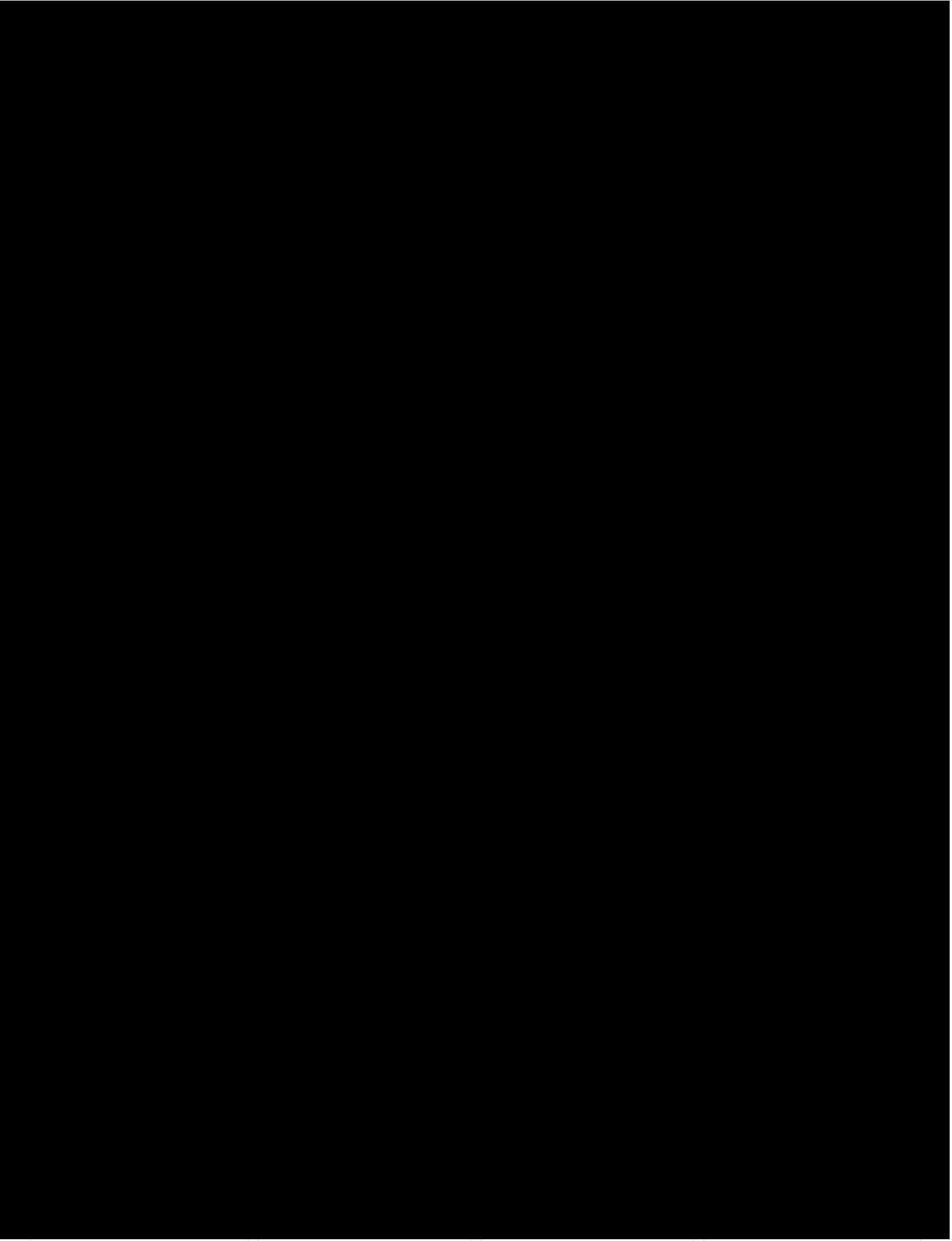
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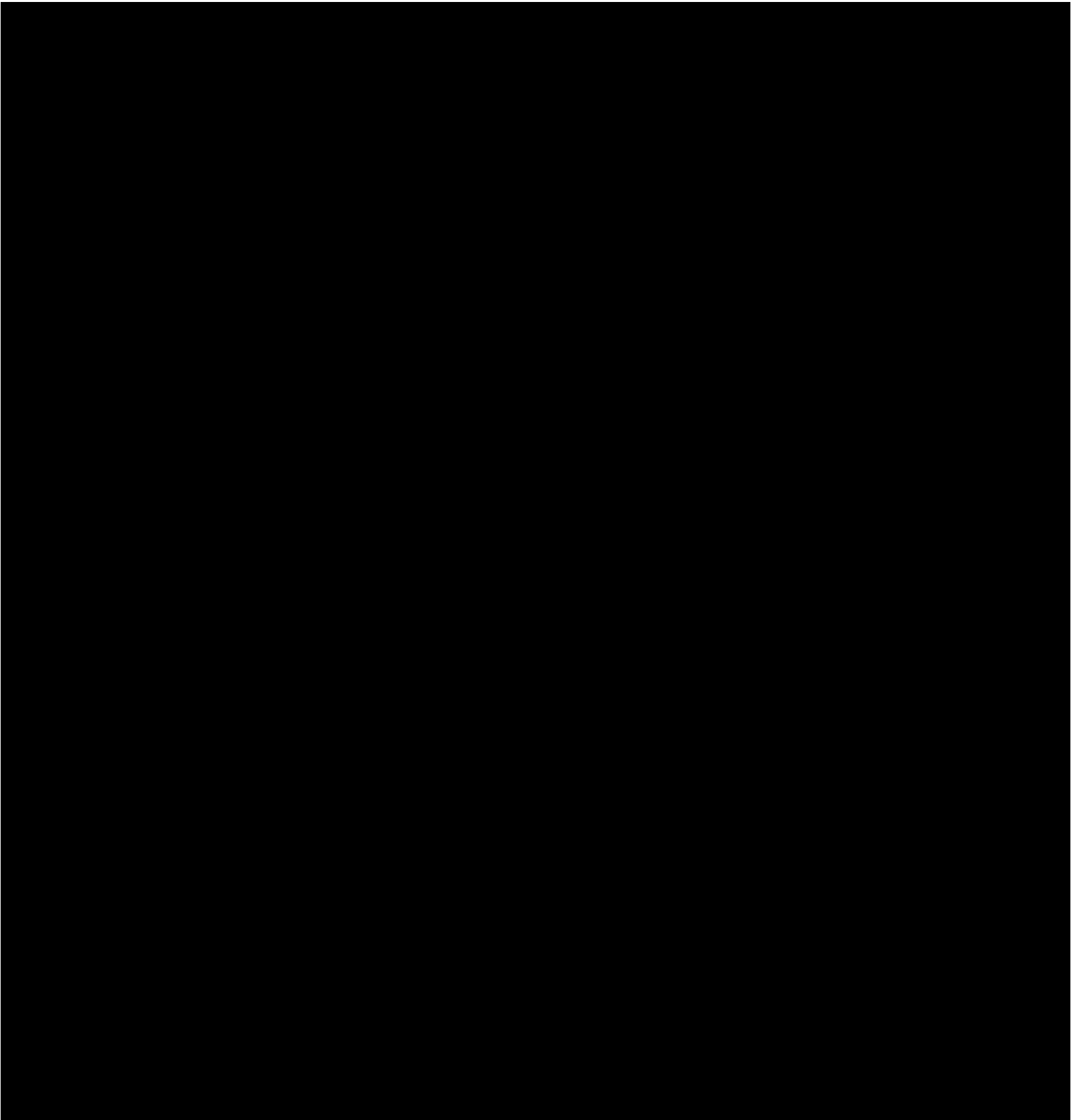












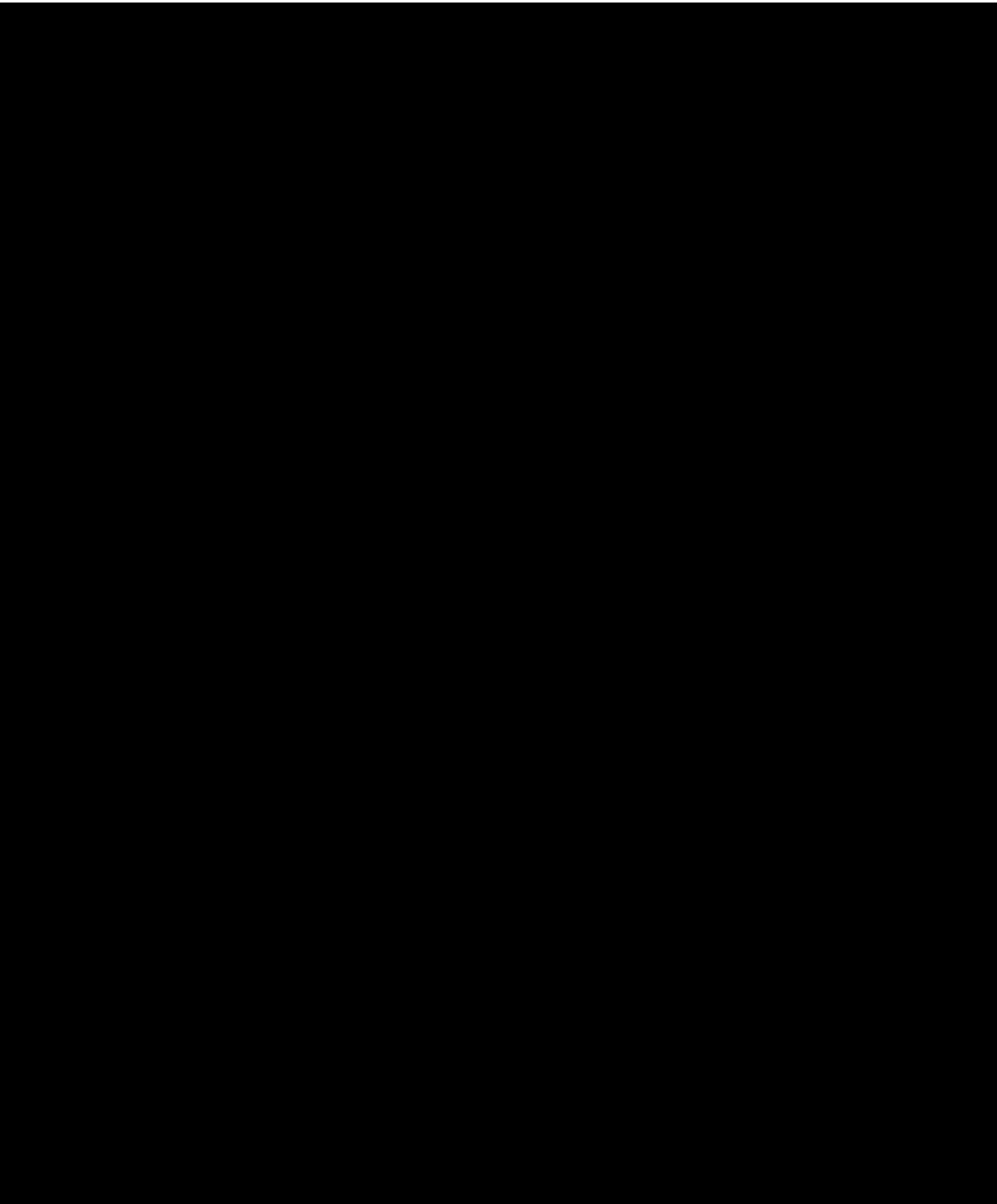




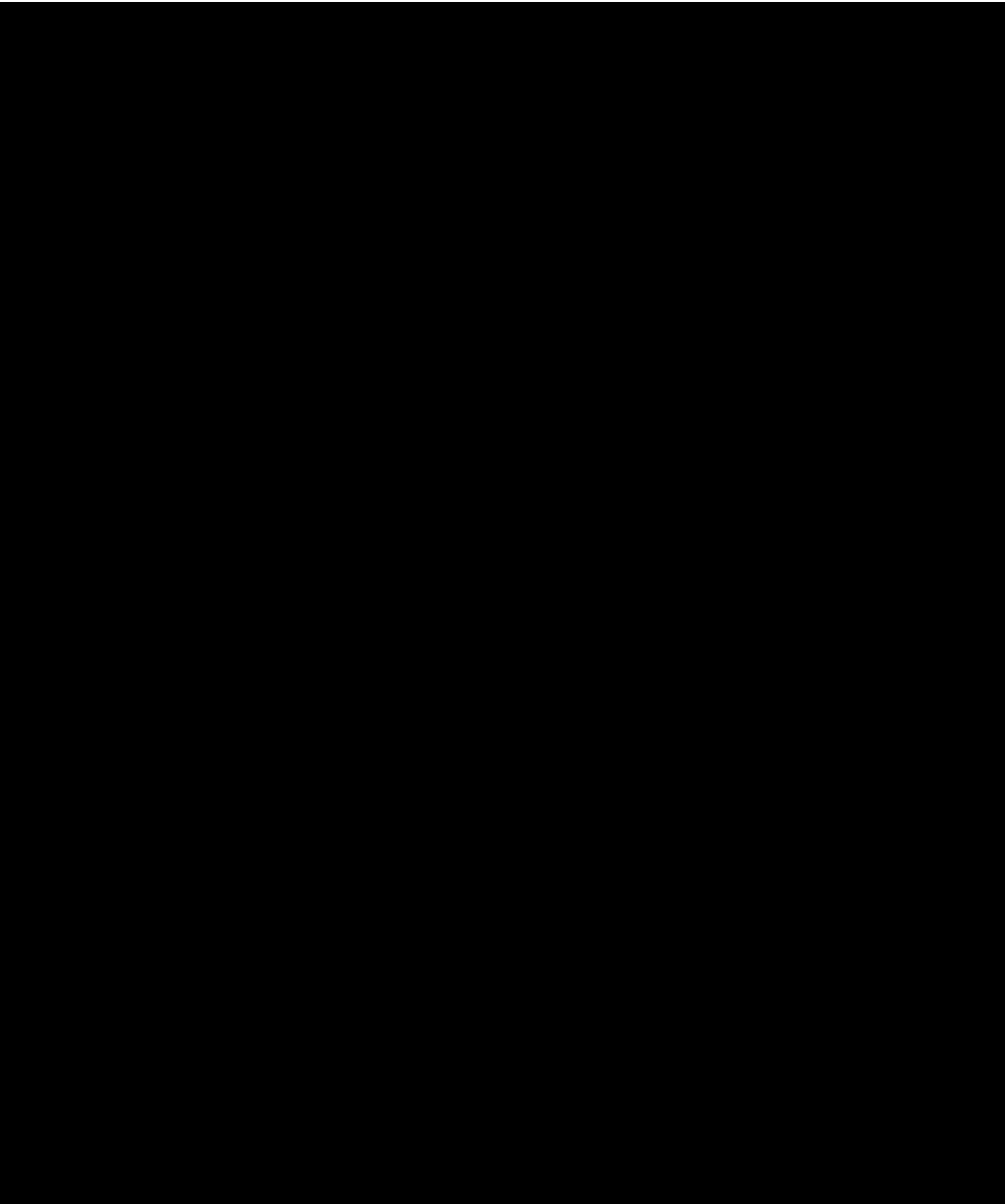








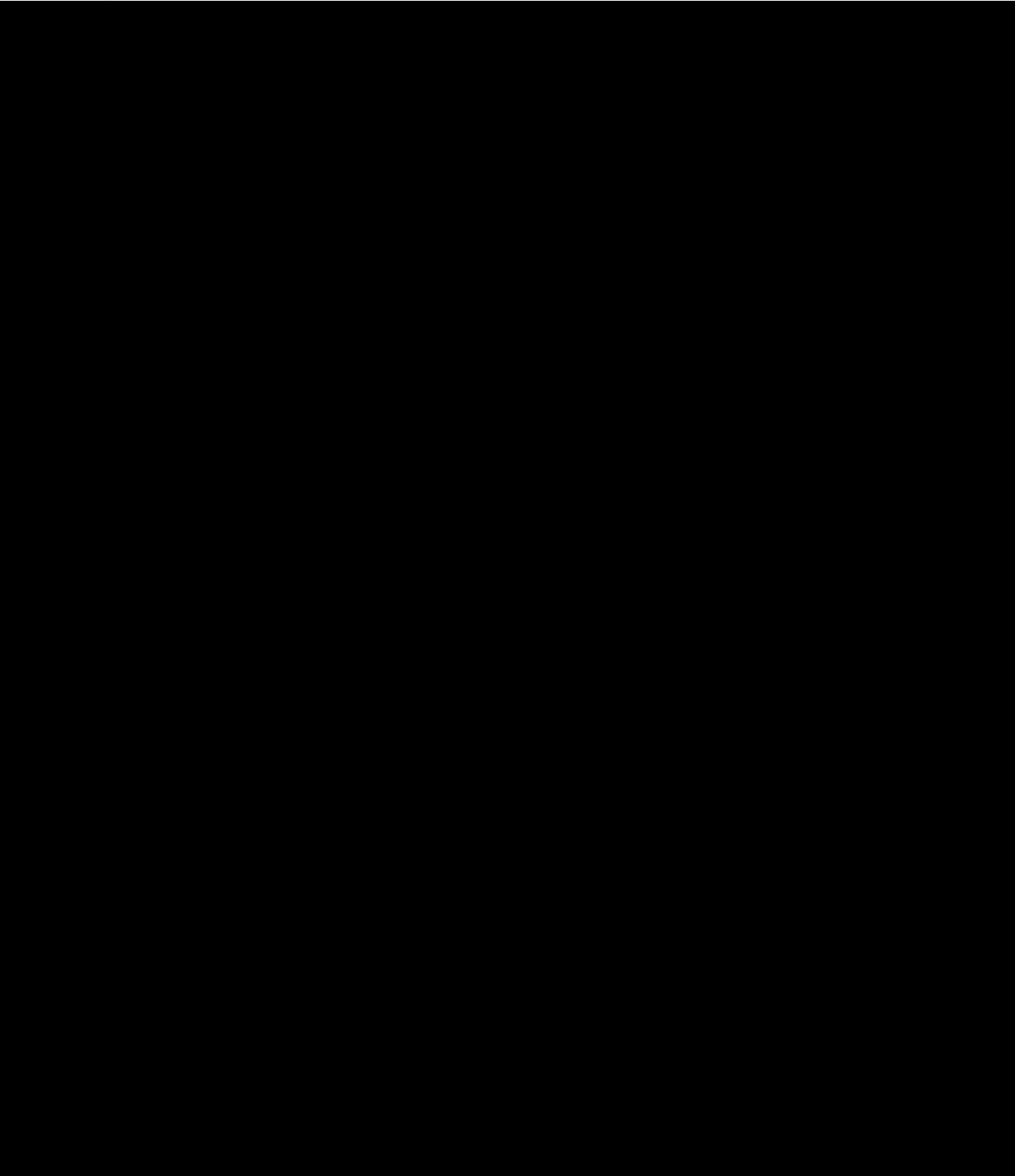








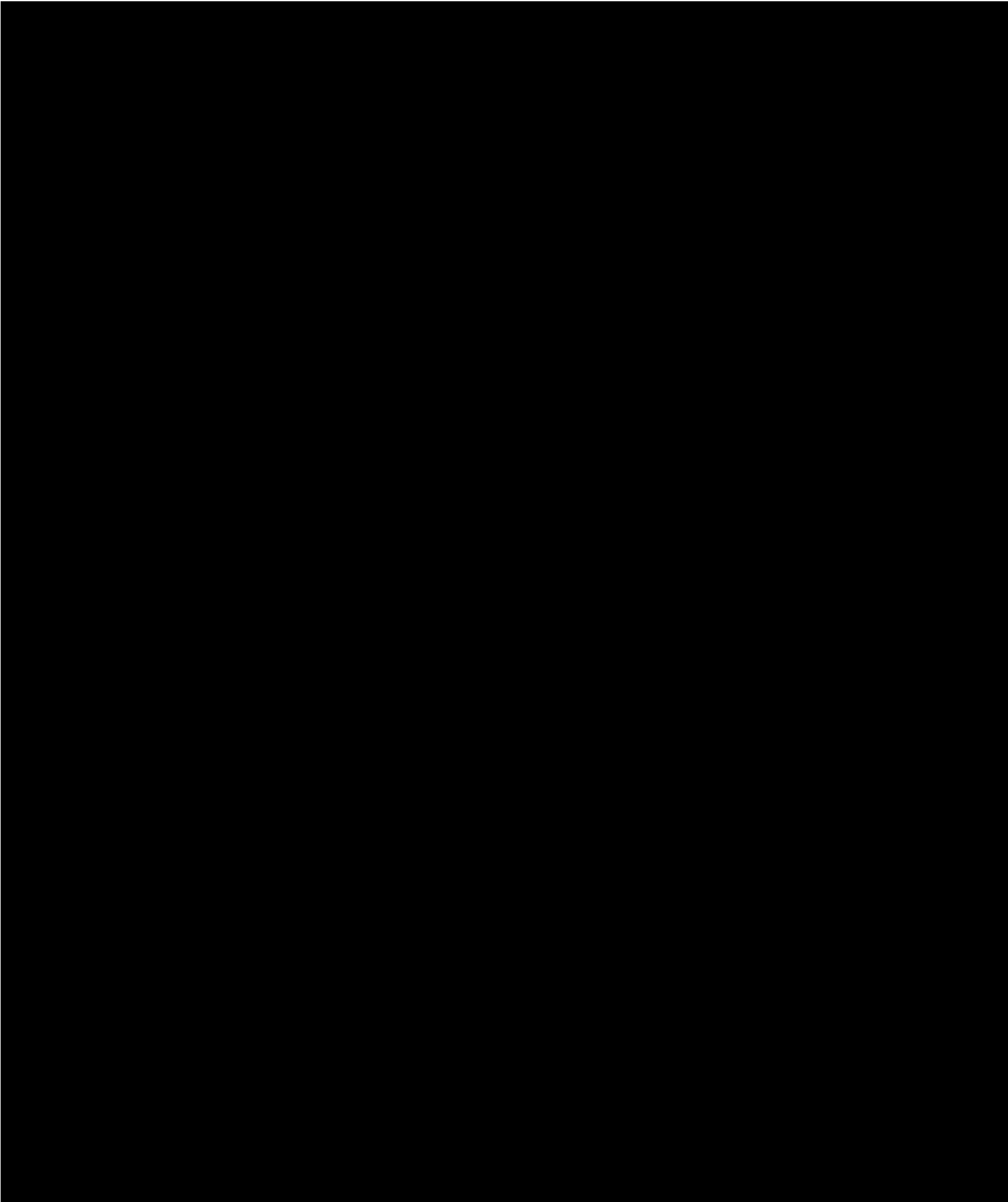


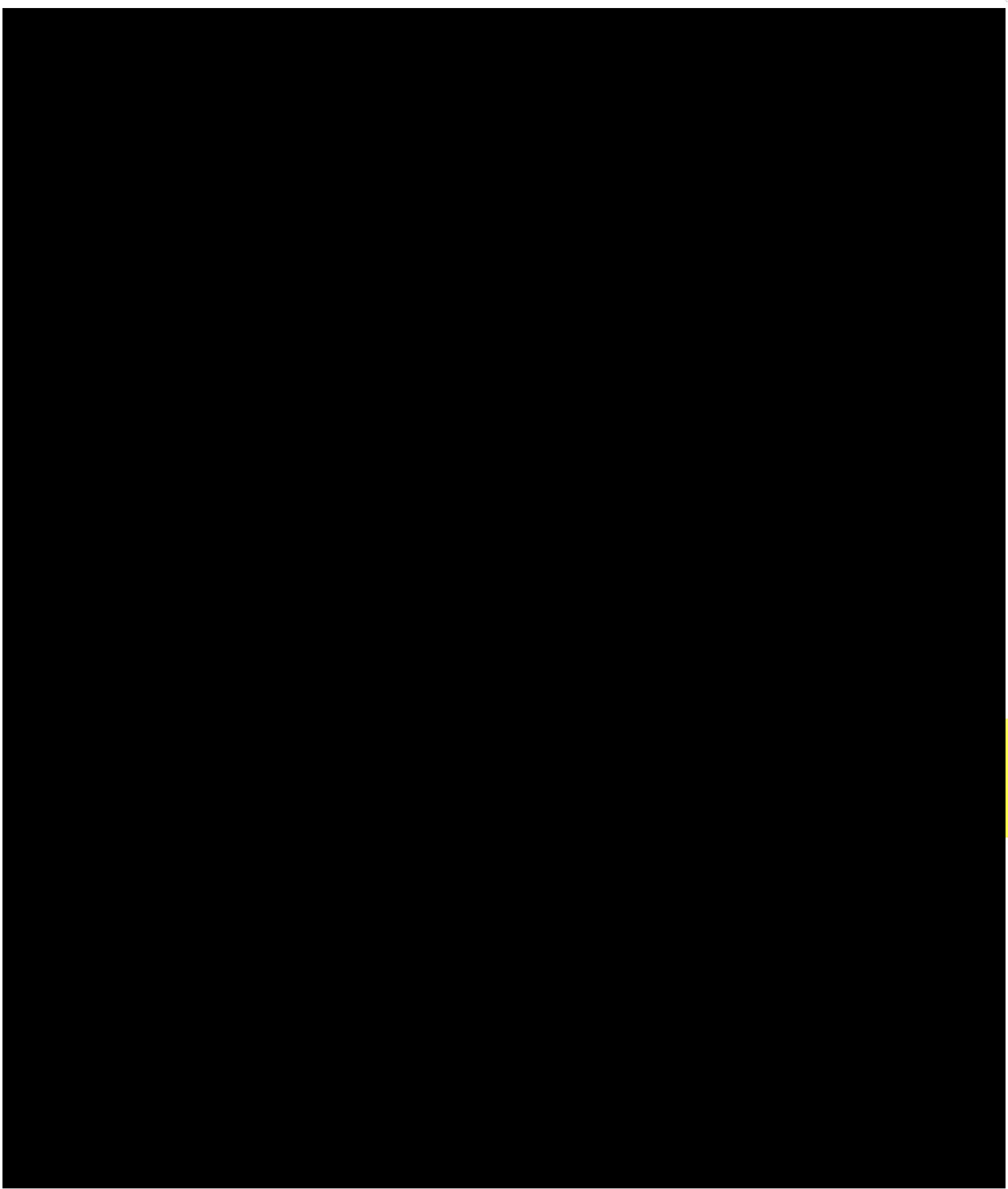














**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
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In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

Date registered: June 6, 1995

-----		X
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----		X

PARTY DESIGNATION: See Exhibit Cover Sheets

**Designated TTAB Discovery Deposition Transcript of  
Michael Harris, dated September 14, 2017  
Part 3 of 6**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
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In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

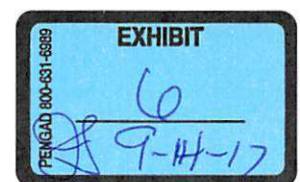
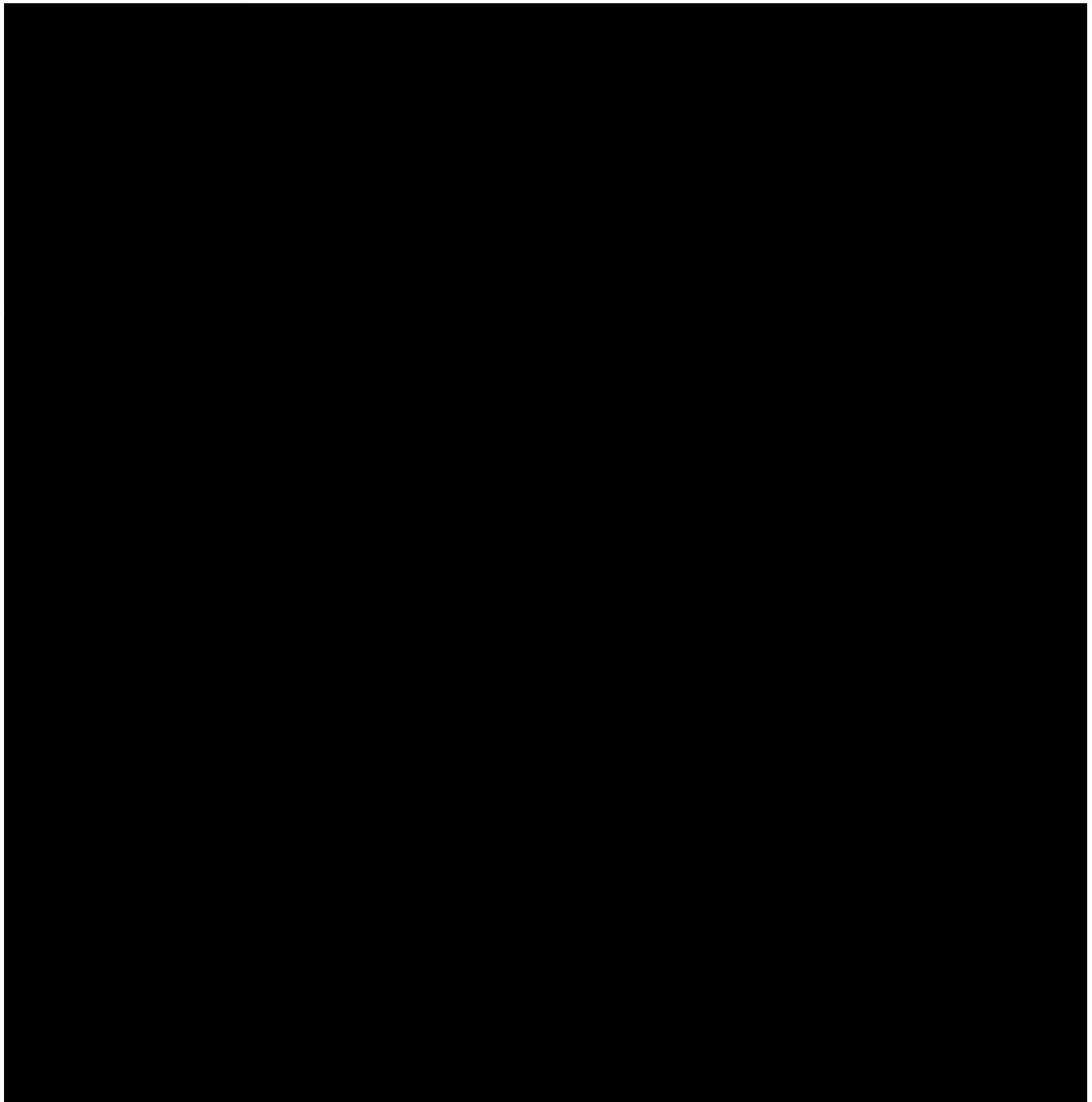
For the mark COHIBA

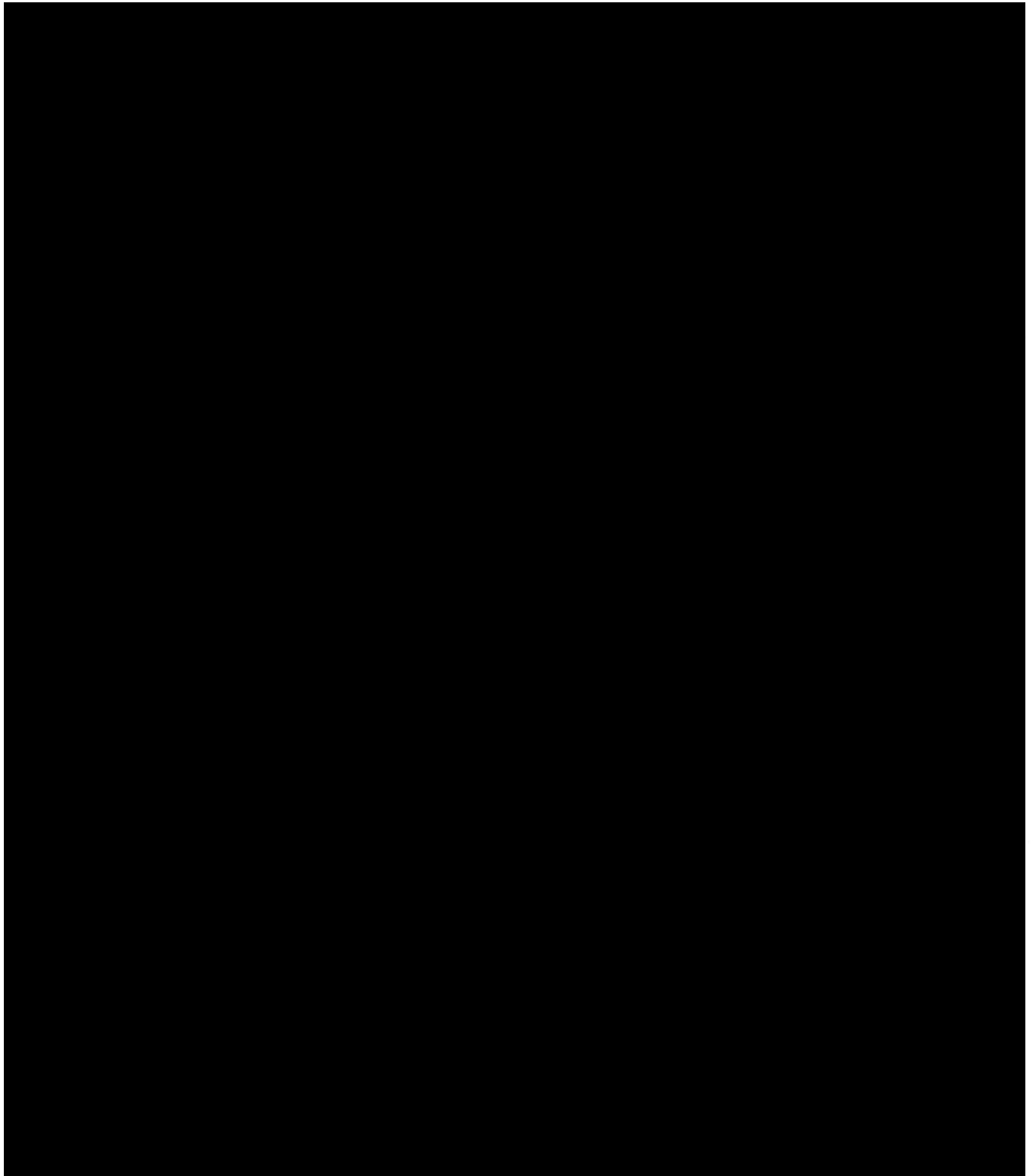
Date registered: June 6, 1995

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EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----	X	

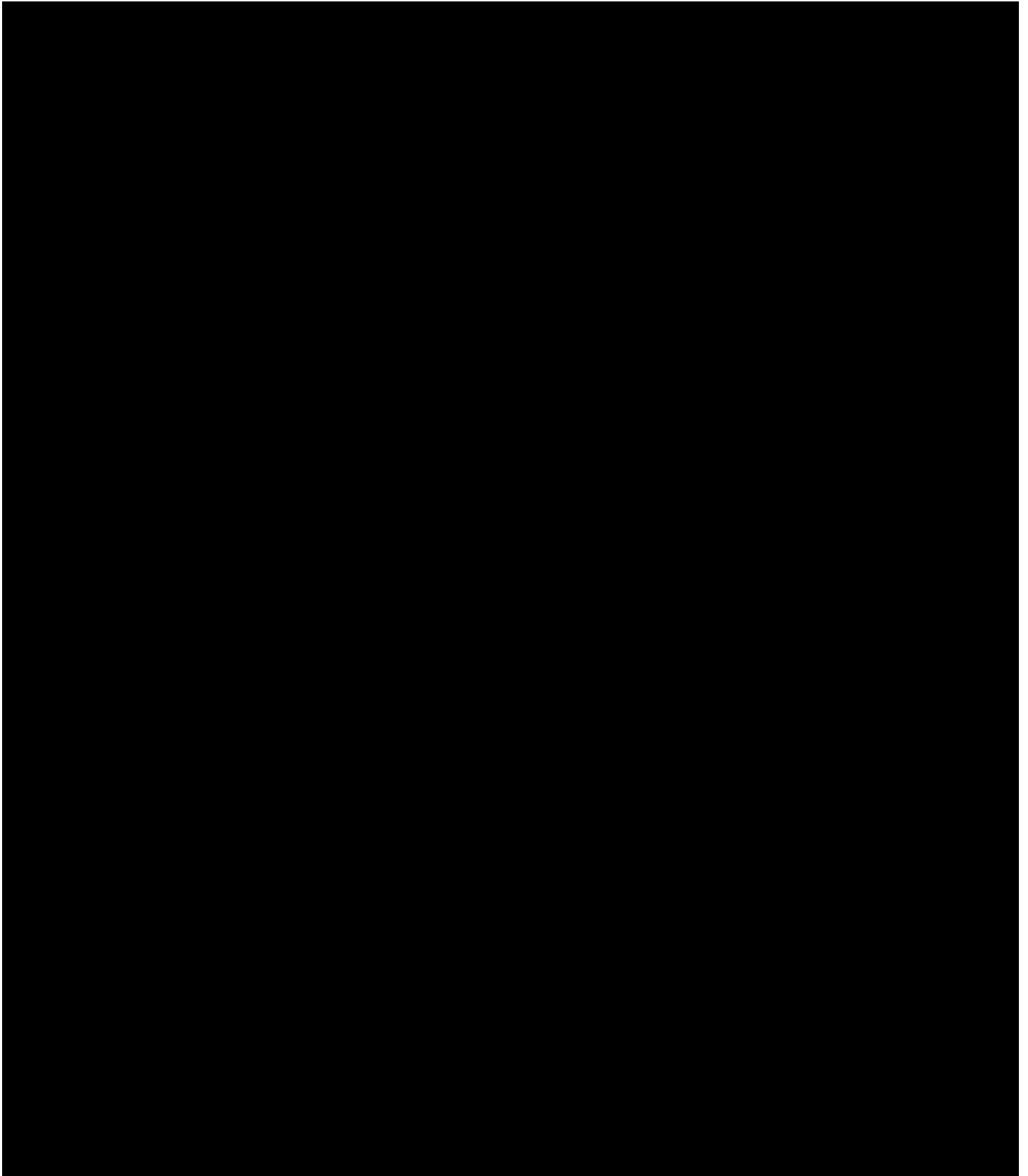
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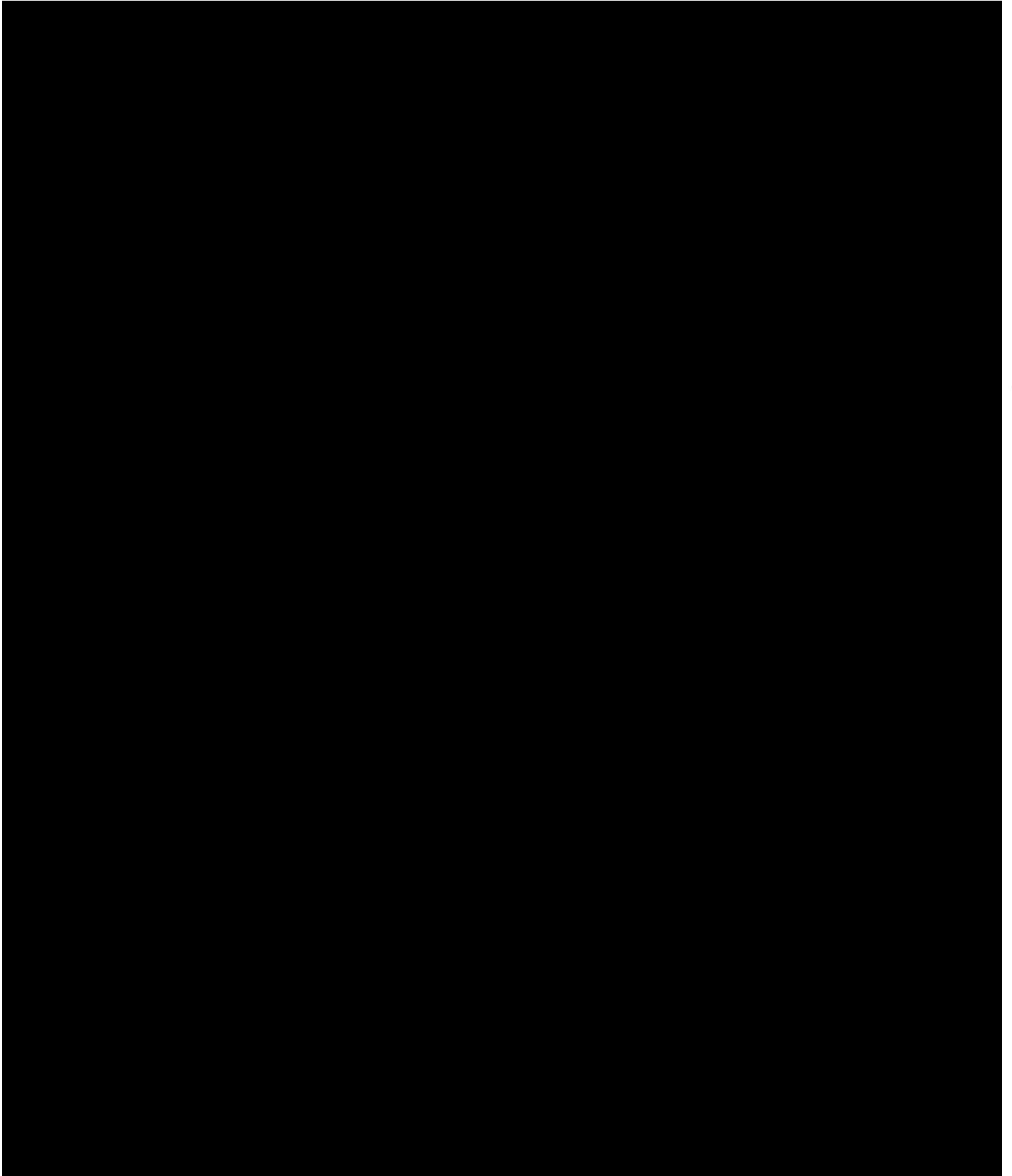
**Exhibit 6 to the TTAB Discovery Deposition Transcript of  
Michael Harris, dated September 14, 2017**

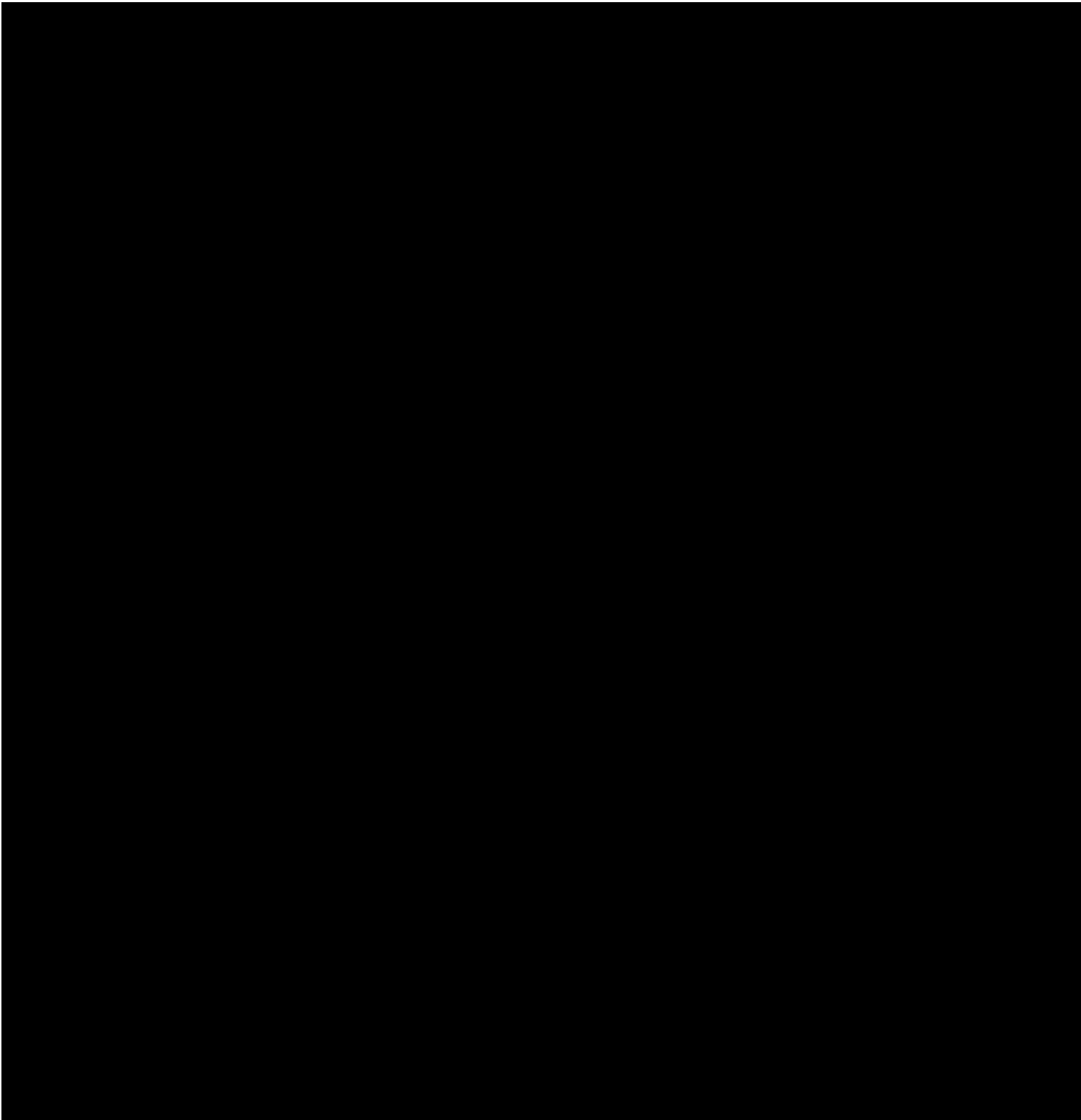












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For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

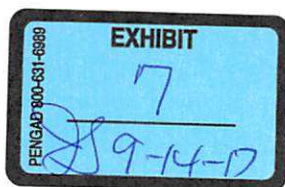
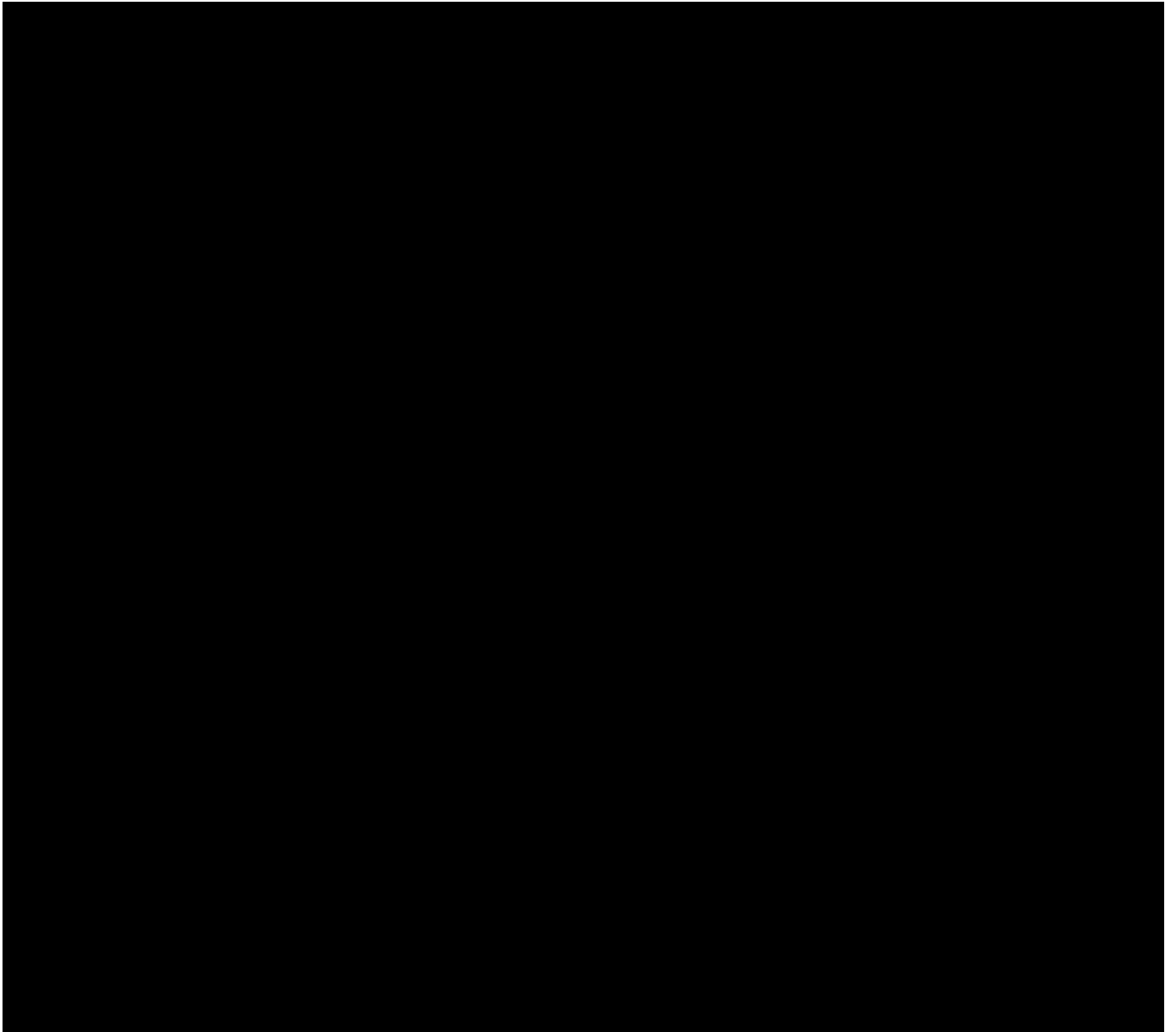
For the mark COHIBA

Date registered: June 6, 1995

-----	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----	X	

PARTY OFFERING: PETITIONER

**Exhibit 7 to the TTAB Discovery Deposition Transcript of  
Michael Harris, dated September 14, 2017**



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

Date registered: June 6, 1995

-----	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----	X	

PARTY OFFERING: PETITIONER

**Exhibit 8 to the TTAB Discovery Deposition Transcript of  
Michael Harris, dated September 14, 2017**

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**COHIBA**

**SURGEON GENERAL WARNING:** Cigar Smoking Can Cause Cancers Of The Mouth And Throat, Even If You Do Not Inhale.

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**About** [Suggest Edits](#)

**BUSINESS INFO**

Founded in 1496

**CONTACT DETAILS**

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http://www.cohiba.com

**STORY**

**HOUSE RULES**

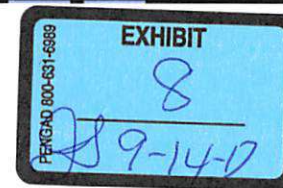
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99+

2:02 PM 6/8/2017



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### About

The most iconic name in luxury cigars, Cohiba exemplifies style and sophistication. Cohiba is the must-have for any dedicated cigar connoisseur.

### Company Overview

One of the world's most recognizable luxury names, Cohiba remains a must-have for any dedicated cigar connoisseur. Developed in the Dominican Republic by Diaz y... See more

### Products

The most iconic name in luxury cigars, Cohiba exemplifies style and sophistication. Cohiba is the must-have for any dedicated cigar connoisseur. This collectio... See more

### Company

## STORY

### HOUSE RULES

This page provides a place to discuss the Cohiba brand, our family of products and news. The following guidelines are designed to help provide a quality environment for our fans. Please take a minute to read them and keep them in mind whenever you participate.

Note: while we are glad to hear from everyone, it is important to note that postings by fans to the Cohiba Facebook page do... See more

### Milestones

2008	Cohiba Puro Dominicana is introduced
2006	Cohiba Black arrives
1991	The debut of Cohiba XV

See All

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## CONTACT DETAILS

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## MORE INFO

### About

The most iconic name in luxury cigars, Cohiba exemplifies style and sophistication. Cohiba is the must-have for any dedicated cigar connoisseur.

### Company Overview

One of the world's most recognizable luxury names, Cohiba remains a must-have for any dedicated cigar connoisseur. Developed in the Dominican Republic by Diaz y... See more

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The most iconic name in luxury cigars, Cohiba exemplifies style and sophistication. Cohiba is the must-have for any dedicated cigar connoisseur. This collectio... See more

### Company

## STORY

### HOUSE RULES

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Note: while we are glad to hear from everyone, it is important to note that postings by fans to the Cohiba Facebook page do... See more

### Milestones

2008	Cohiba Puro Dominicana is introduced
2006	Cohiba Black arrives
1991	The debut of Cohiba XV
1982	Cohiba goes worldwide
1978	General Cigar crafts the Dominican Cohiba cigar
1496	Founded in 1496

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cigar connoisseur.

**Company Overview**  
One of the world's most recognizable It remains a must-have for any dedicated Developed in the Dominican Republic

**Products**  
The most iconic name in luxury cigars, and sophistication. Cohiba is the must-cigar connoisseur. This collectio... See

**Company**


2008 Cohiba Puro Dominicana is introduced

**Cohiba**  
2008

Like Page

**Cohiba Puro Dominicana is introduced**  
2008

As a tribute to the discovery of Cohiba in Santa Domingo, General Cigar introduces Cohiba Puro Dominicana, a Cohiba made solely with Dominican tobaccos blended to create the perfect smoking experience.



50 3 Con Chat (Off)

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As a tribute to the discovery of Cohiba in Santa Domingo, General Cigar introduces Cohiba Puro Dominicana, a Cohiba made solely with Dominican tobaccos blended to create the perfect smoking experience.



50 3 Comments

Like Comment Share

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 **Robert Braxton** HIBS MY FAVORIT!!!!!!!  
25 July 2012 at 22:32 Like

 **Raif Yazicigil** I do  
26 July 2012 at 05:45 Like

 Write a comment  
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**Company Overview**  
One of the world's most recognizable luxury names, Cohiba remains a must-have. Developed in the


**Products**  
The most iconic and sophisticated cigar connoisseur

**Company**

**Cohiba**  
2006

**Cohiba Black arrives**  
2006

The highly acclaimed Cohiba Black is introduced. This rich and complex cigar features a dark maduro wrapper and aged Dominican Piloto binder.



28 1 Comment

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Cohiba Black arrives  
2006

The highly acclaimed Cohiba Black is introduced. This rich and complex cigar features a dark maduro wrapper and aged Dominican Piloto binder.



28 1 Comment

Like Comment Share

Dave Pipher have to sample those in cuba in the new year...  
26 July 2012 at 00:14 Like

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**COHIBA**

One of the world's most recognizable luxury names, Cohiba remains a must-have for any dedicated cigar connoisseur. Developed in the Dominican Republic by Diaz y... See more

Products  
The most iconic name and sophistication. Cigar connoisseur. Th

Company

Cohiba  
1991

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Dominican Cohiba


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The debut of Cohiba XV  
1991

Cohiba XV is introduced. With the XV standing for "Extra Vigoroso," this full-bodied cigar is among the most sought after Cohibas available and is made only in limited quantities.



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The debut of Cohiba XV

1991

Cohiba XV is introduced. With the XV standing for "Extra Vigoroso," this full-bodied cigar is among the most sought after Cohibas available and is made only in limited quantities.



12 1 Comment

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Nedyalkovski Cveta

.....кво,т намери.....

25 July 2012 at 17:52 Like

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remains a must-have for any dedicated cigar connoisseur. Developed in the Dominican Republic by Diaz y... See more

1991 The debut of Cohiba XV

1982 Cohiba goes worldwide

**COHIBA**

**Products**  
The most iconic name and sophistication. Cigar connoisseur. TI

**Company**

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Cohiba goes worldwide

1982

Cohiba cigars are introduced worldwide, with the exception of the United States. The introduction features three sizes: Panatela, Corona Especial and Lancero.



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Cohiba goes worldwide

1982

Cohiba cigars are introduced worldwide, with the exception of the United States. The introduction features three sizes: Panatela, Corona Especial and Lancero.



13 1 Comment

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Top comments

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Jamhal Mills Tha year I was born...  
Like Reply 14 August 2013 at 20:50

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cigar connoisseur. This collectio... See more

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**Cohiba**  
1978

General Cigar crafts the Dominican Cohiba cigar

1978

Five centuries after Christopher Columbus heard the word "Cohiba" for the first time in the Dominican Republic, General Cigar develops a Cohiba cigar in the same country.



13

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and sophistication. Cohiba is the must-have for any dedicated cigar connoisseur. This collectio... See more 1496 Founded in 1496

**COHIBA**

Company

Cohiba 1496

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Founded in 1496

Christopher Columbus makes his second voyage west. It's on this expedition that he and his crew hear the word "Cohiba" for the first time. The Taino Indians, the natives of Santa Domingo, use it to refer to the cured leaves of tobacco that they grow and smoke for pleasure.



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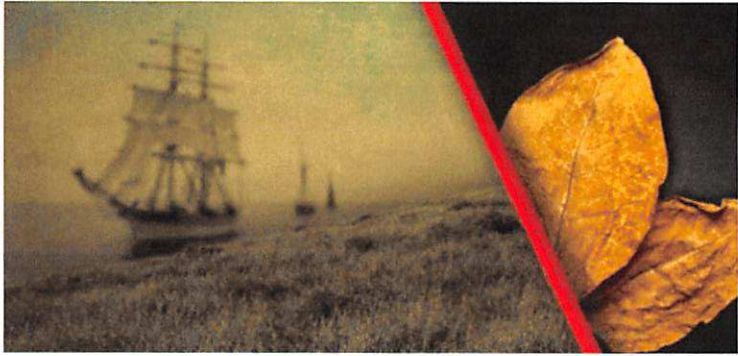
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FOUNDED IN 1700  
1496

Christopher Columbus makes his second voyage west. It's on this expedition that he and his crew hear the word "Cohiba" for the first time. The Taino Indians, the natives of Santa Domingo, use it to refer to the cured leaves of tobacco that they grow and smoke for pleasure.



5 1 Comment

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Christian Beck Marcel Rölke  
Like · Reply · 1 · 24 January 2016 at 14:12

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MORE INFO

About  
The most iconic name in luxury cigars, Cohiba exemplifies style and sophistication. Cohiba is the must-have for any dedicated cigar connoisseur.

Company Overview  
One of the world's most recognizable luxury names, Cohiba remains a must-have for any dedicated cigar connoisseur. Developed in the Dominican Republic by Diaz y Cia in 1978 (nearly five centuries after Columbus landed on the shores of the modern-day D.R. to find the natives smoking tobacco leaves they called "cohiba"), the brand was first made by General Cigar in the 1980s. The U.S. version of Cohiba is the only Cohiba brand that can be purchased legally in the United States; it remains peerless in defining luxury premium-cigar enjoyment.

Products  
The most iconic name in luxury cigars, Cohiba exemplifies style and sophistication. Cohiba is the must-have for any dedicated cigar connoisseur. This collectio... See more

Company

This page provides a place to discuss the Cohiba brand, our family of products and news. The following guidelines are designed to help provide a quality environment for our fans. Please take a minute to read them and keep them in mind whenever you participate.

Note: while we are glad to hear from everyone, it is important to note that postings by fans to the Cohiba Facebook page do... See more

Milestones

2008	Cohiba Puro Dominicana is introduced
2006	Cohiba Black arrives
1991	The debut of Cohiba XV
1982	Cohiba goes worldwide
1978	General Cigar crafts the Dominican Cohiba cigar
1496	Founded in 1496

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Facebook browser window showing the Cohiba page. The address bar displays the URL: [https://www.facebook.com/pg/Cohiba/about/?ref=page\\_internal](https://www.facebook.com/pg/Cohiba/about/?ref=page_internal). The page header includes navigation links: Home, Find Friends, and a search bar. The main content area features the Cohiba logo and a sidebar with navigation options: Home, About (selected), Photos, Likes, Events, Videos, and Posts. A green button labeled "Create a Page" is visible. The main content area is divided into sections: "MORE INFO" (About, Company Overview, Products) and a "Note" section. The "About" section states: "The most iconic name in luxury cigars. Cohiba exemplifies style and sophistication. Cohiba is the must-have for any dedicated cigar connoisseur." The "Company Overview" section states: "One of the world's most recognizable luxury names. Cohiba remains a must-have for any dedicated cigar connoisseur. Developed in the Dominican Republic by Diaz y Cia in 1978 (nearly five centuries after Columbus landed on the shores of the modern-day D.R. to find the natives smoking tobacco leaves they called 'cohiba'), the brand was first made by General Cigar in the 1980s. The U.S. version of Cohiba is the only Cohiba brand that can be purchased legally in the United States; it remains peerless in defining luxury premium-cigar enjoyment." The "Products" section states: "The most iconic name in luxury cigars. Cohiba exemplifies style and sophistication. Cohiba is the must-have for any dedicated cigar connoisseur. This collection of medium- to full-bodied smokes, sculpted to the highest standards, symbolizes a life of attainable elegance. Handcrafted by General Cigar in the Dominican Republic, Cohiba is a brand that deserves a place in the most carefully-curated cigar collections." The "Note" section states: "Note: while we are glad to hear from everyone, it is important to note that postings by fans to the Cohiba Facebook page do not necessarily reflect the opinions of Cohiba Red Dot and its affiliates. Further, Cohiba and its affiliates do not represent the accuracy of any User Content, and do not necessarily endorse the opinions expressed on this fan page." The bottom of the page shows a Windows taskbar with various application icons and a system clock indicating 12:48 PM on 6/6/2017.

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**MORE INFO**

**About**  
The most iconic name in luxury cigars. Cohiba exemplifies style and sophistication. Cohiba is the must-have for any dedicated cigar connoisseur.

**Company Overview**  
One of the world's most recognizable luxury names. Cohiba remains a must-have for any dedicated cigar connoisseur. Developed in the Dominican Republic by Diaz y Cia in 1978 (nearly five centuries after Columbus landed on the shores of the modern-day D.R. to find the natives smoking tobacco leaves they called "cohiba"), the brand was first made by General Cigar in the 1980s. The U.S. version of Cohiba is the only Cohiba brand that can be purchased legally in the United States; it remains peerless in defining luxury premium-cigar enjoyment.

**Products**  
The most iconic name in luxury cigars. Cohiba exemplifies style and sophistication. Cohiba is the must-have for any dedicated cigar connoisseur. This collection of medium- to full-bodied smokes, sculpted to the highest standards, symbolizes a life of attainable elegance. Handcrafted by General Cigar in the Dominican Republic, Cohiba is a brand that deserves a place in the most carefully-curated cigar collections.

Developed in the Dominican Republic by Diaz y Cia in 1978 (nearly five centuries after Columbus landed on the shores of the modern-day D.R. to find the natives smoking tobacco leaves they called "cohiba"), the brand was first made by General Cigar in the 1980s.

Note: while we are glad to hear from everyone, it is important to note that postings by fans to the Cohiba Facebook page do not necessarily reflect the opinions of Cohiba Red Dot and its affiliates. Further, Cohiba and its affiliates do not represent the accuracy of any User Content, and do not necessarily endorse the opinions expressed on this fan page.

By using or accessing this page, you acknowledge that you are 21 years of age and agree to comply with Facebook's Terms and Conditions.

We encourage you to leave comments, photos, videos and links here, as long as they are relevant to the intent of the page and provide value to fellow fans. Please be respectful of the community as a whole. We will review all posts and we reserve the right to remove those that do not adhere to our guidelines repeatedly. Further, we will not tolerate these kinds of posts and these will be removed immediately.

- Abusive, harassing, stalking, threatening or attacking others
- Defamatory, offensive, obscene, vulgar or depicting violence
- Hateful in language targeting race/ethnicity, religion, gender, nationality or political beliefs
- Fraudulent, deceptive, misleading or unlawful
- Trolling or deliberate disruption of discussion
- Violations of any intellectual property right

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and sophistication. Cohiba is the most revered for any dedicated cigar connoisseur. This collection of medium- to full-bodied smokes, sculpted to the highest standards, symbolizes a life of attainable elegance. Handcrafted by General Cigar in the Dominican Republic, Cohiba is a brand that deserves a place in the most carefully-curated cigar collections.

Developed in the Dominican Republic by Diaz y Cia in 1978 (nearly five centuries after Columbus landed on the shores of the modern-day D.R. to find the natives smoking tobacco leaves they called "cohiba"), the brand was first made by General Cigar in the 1980s.

The U.S. version of Cohiba is the only Cohiba brand that can be purchased legally in the United States; it remains peerless in defining luxury premium-cigar enjoyment. In addition to the hallmark brand, Cohiba also features these fine, handcrafted expressions: Cohiba XV, Cohiba Black and Cohiba Puro Dominicana.

Note: Cohiba Cigars are made in the Dominican Republic. Never associated with the Cuban cigar sold under the same name outside the U.S. Cohiba Cigars are not made from Cuban-grown tobaccos.

Company

removed immediately:

- Abusive, harassing, stalking, threatening or attacking others
- Defamatory, offensive, obscene, vulgar or depicting violence
- Hateful in language targeting race/ethnicity, religion, gender, nationality or political beliefs
- Fraudulent, deceptive, misleading or unlawful
- Trolling or deliberate disruption of discussion
- Violations of any intellectual property rights
- Spamming in nature
- Uploading files that contain viruses or programs that could damage the operation of other people's computers
- Commercial solicitation or solicitation of donations
- Link baiting (embedding a link in your post to draw traffic to your own site)

Milestones

2008 Cohiba Puro Dominicana is introduced

2006 Cohiba Black arrives

1991 The debut of Cohiba XV

1982 Cohiba goes worldwide

1978 General Cigar crafts the Dominican Cohiba cigar

1496 Founded in 1496

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
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In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

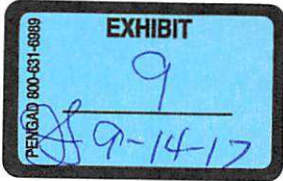
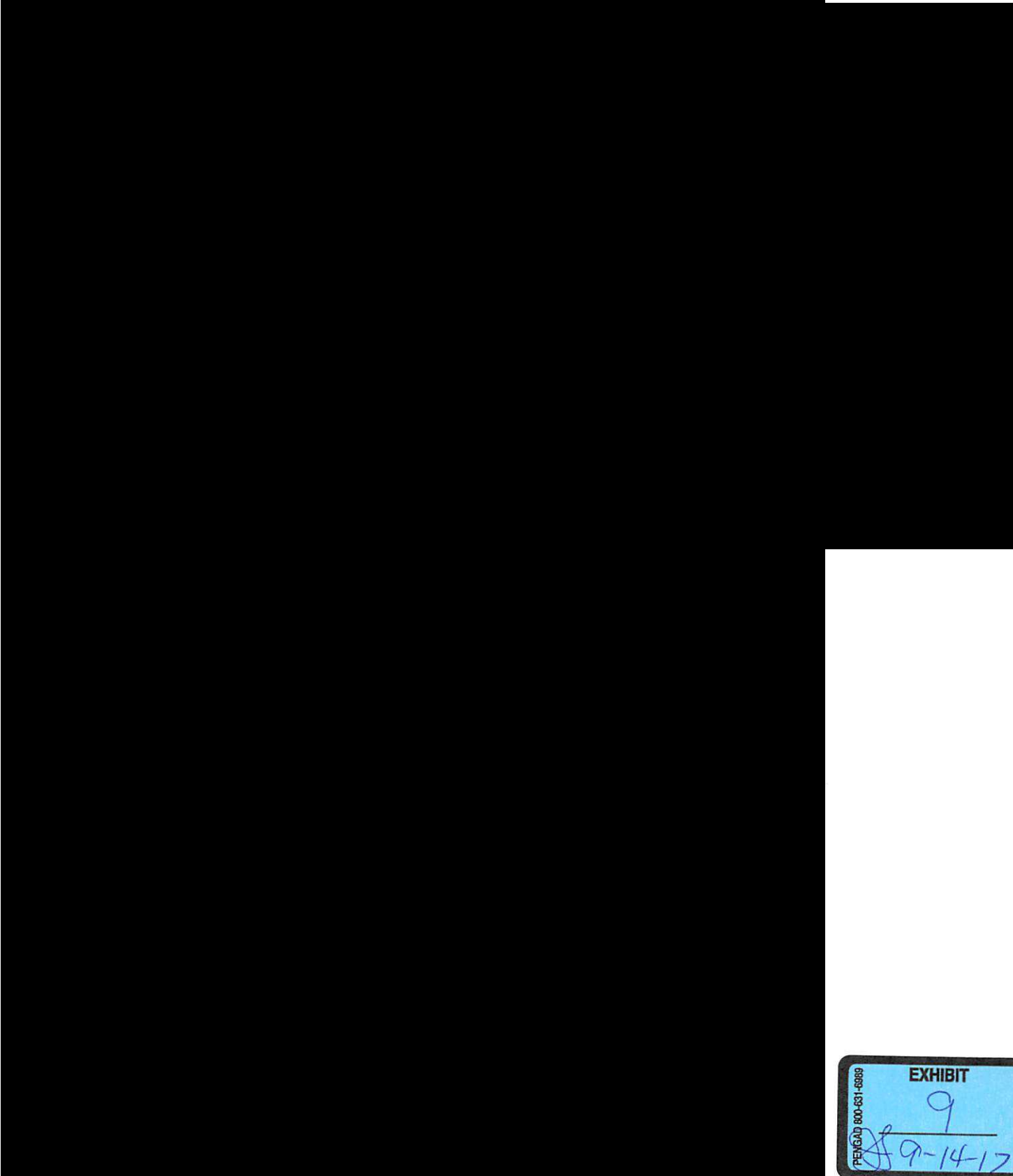
Date registered: June 6, 1995

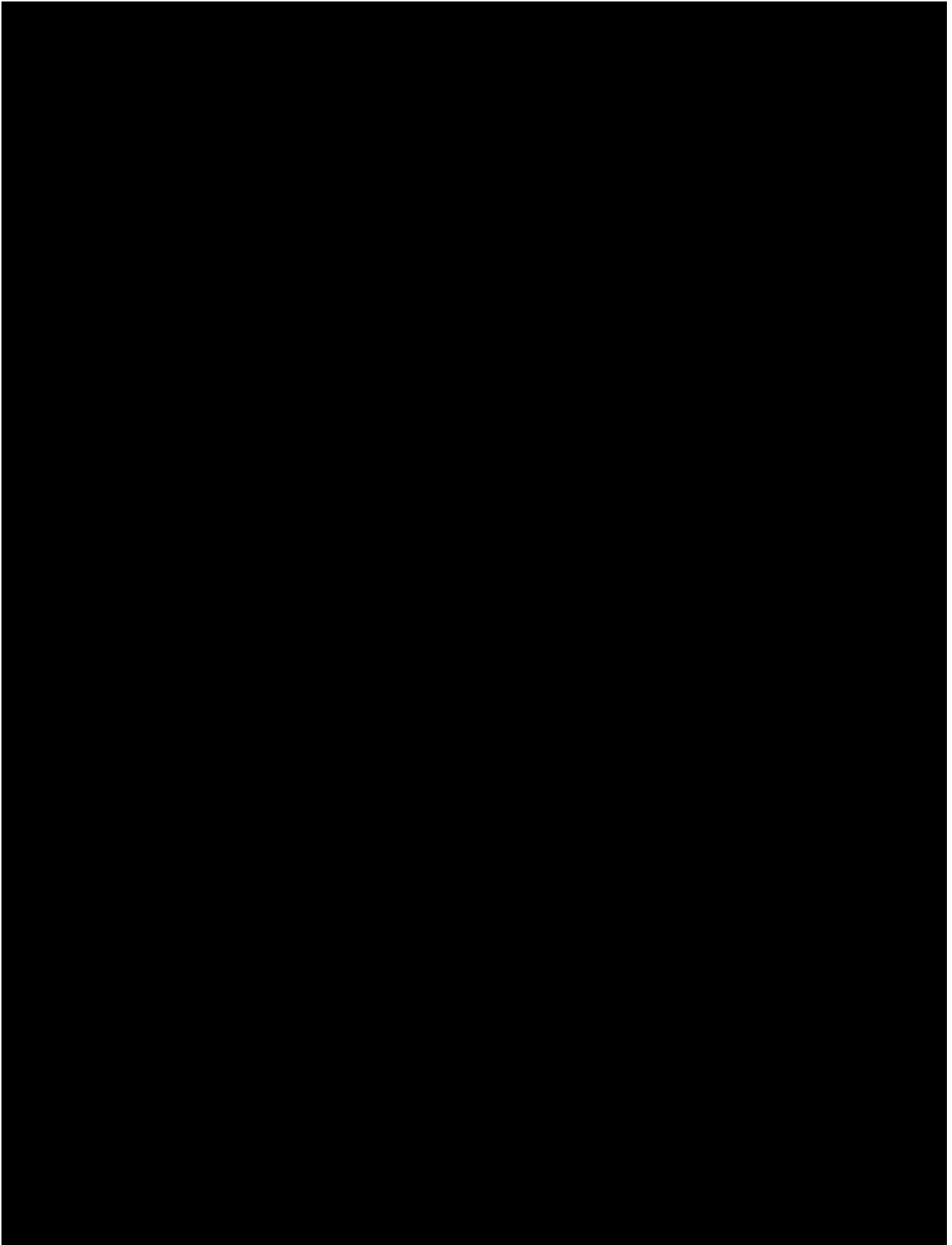
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	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
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Respondent.	:	
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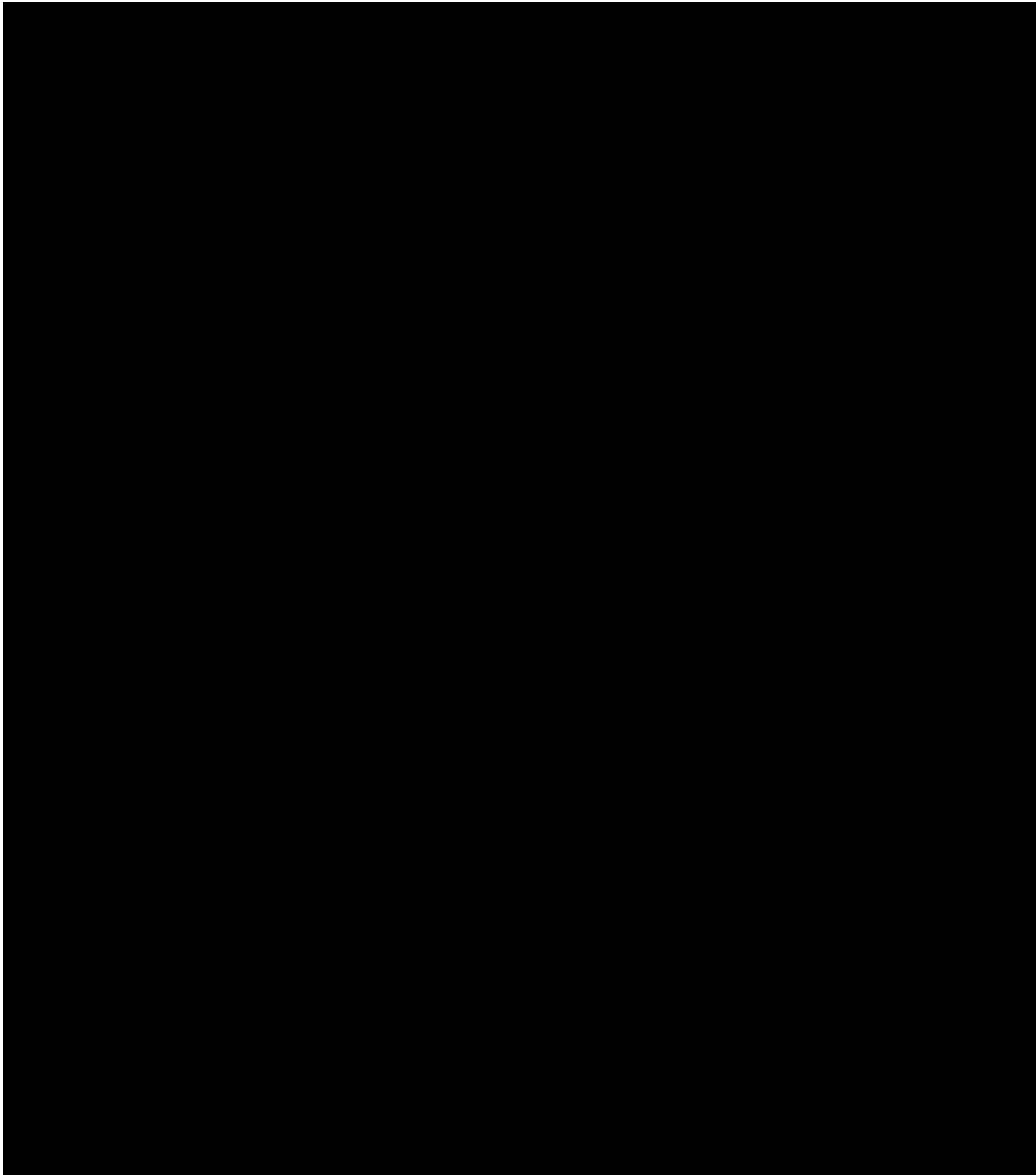
PARTY OFFERING: PETITIONER

**Exhibit 9 to the TTAB Discovery Deposition Transcript of  
Michael Harris, dated September 14, 2017**











**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

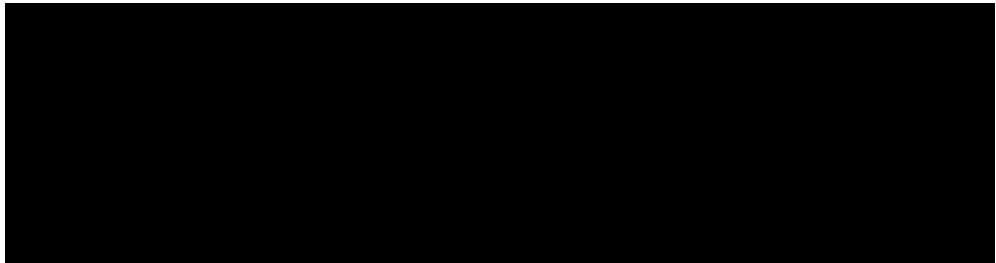
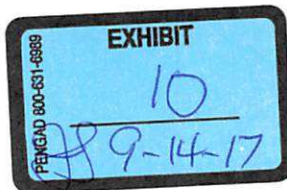
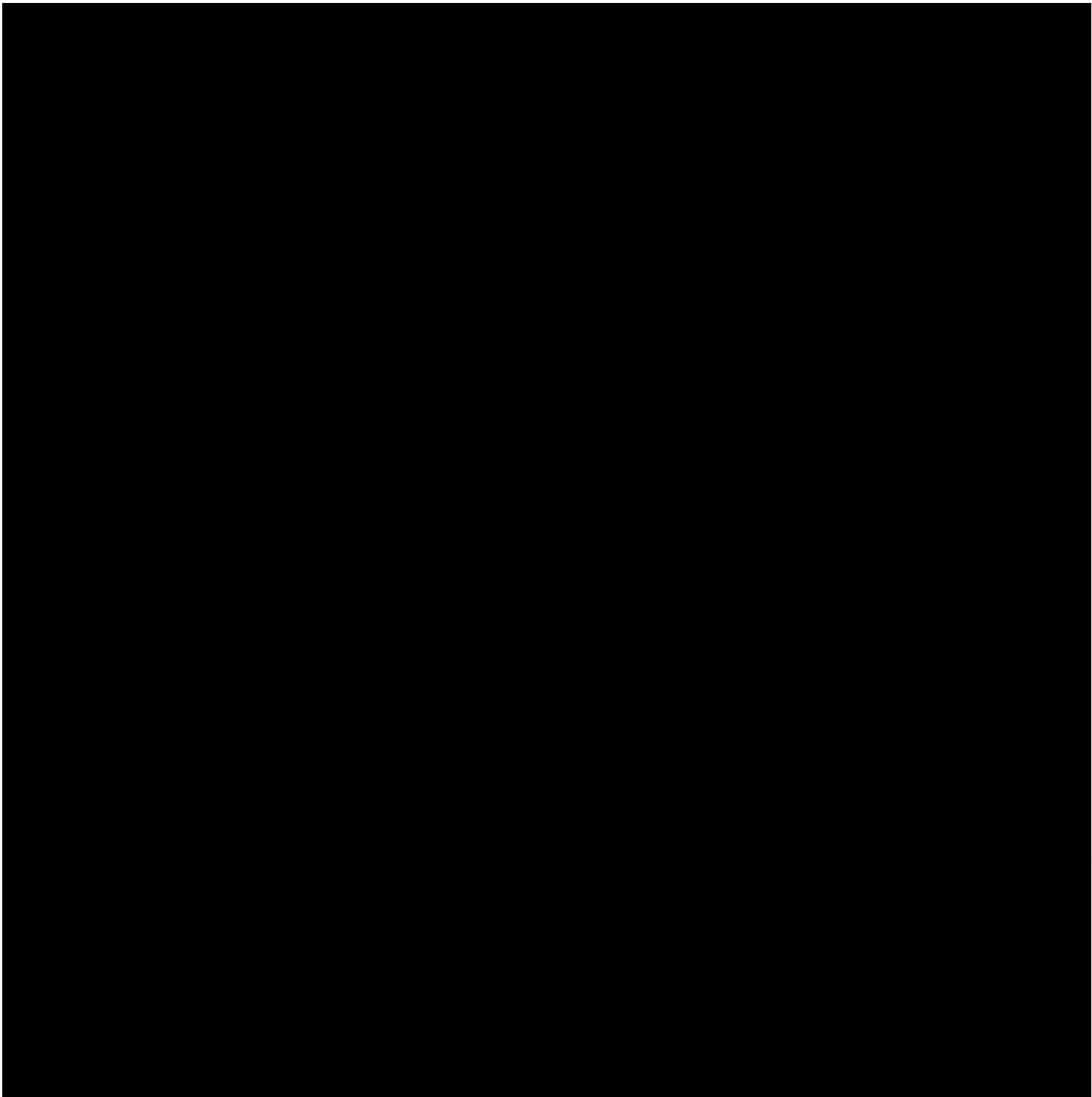
For the mark COHIBA

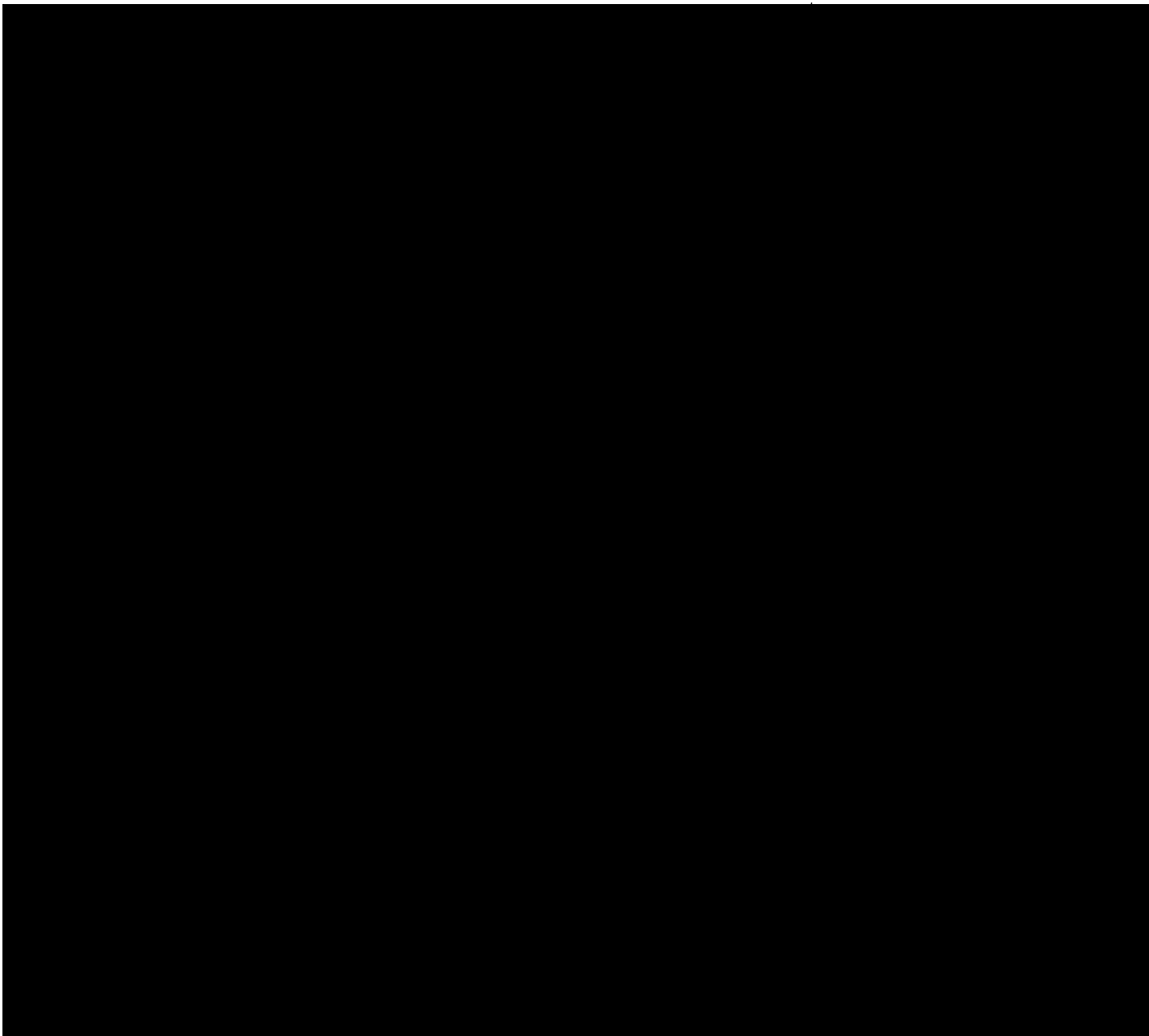
Date registered: June 6, 1995

-----	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----	X	

PARTY OFFERING: PETITIONER

**Exhibit 10 to the TTAB Discovery Deposition Transcript of  
Michael Harris, dated September 14, 2017**





**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

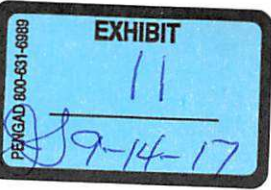
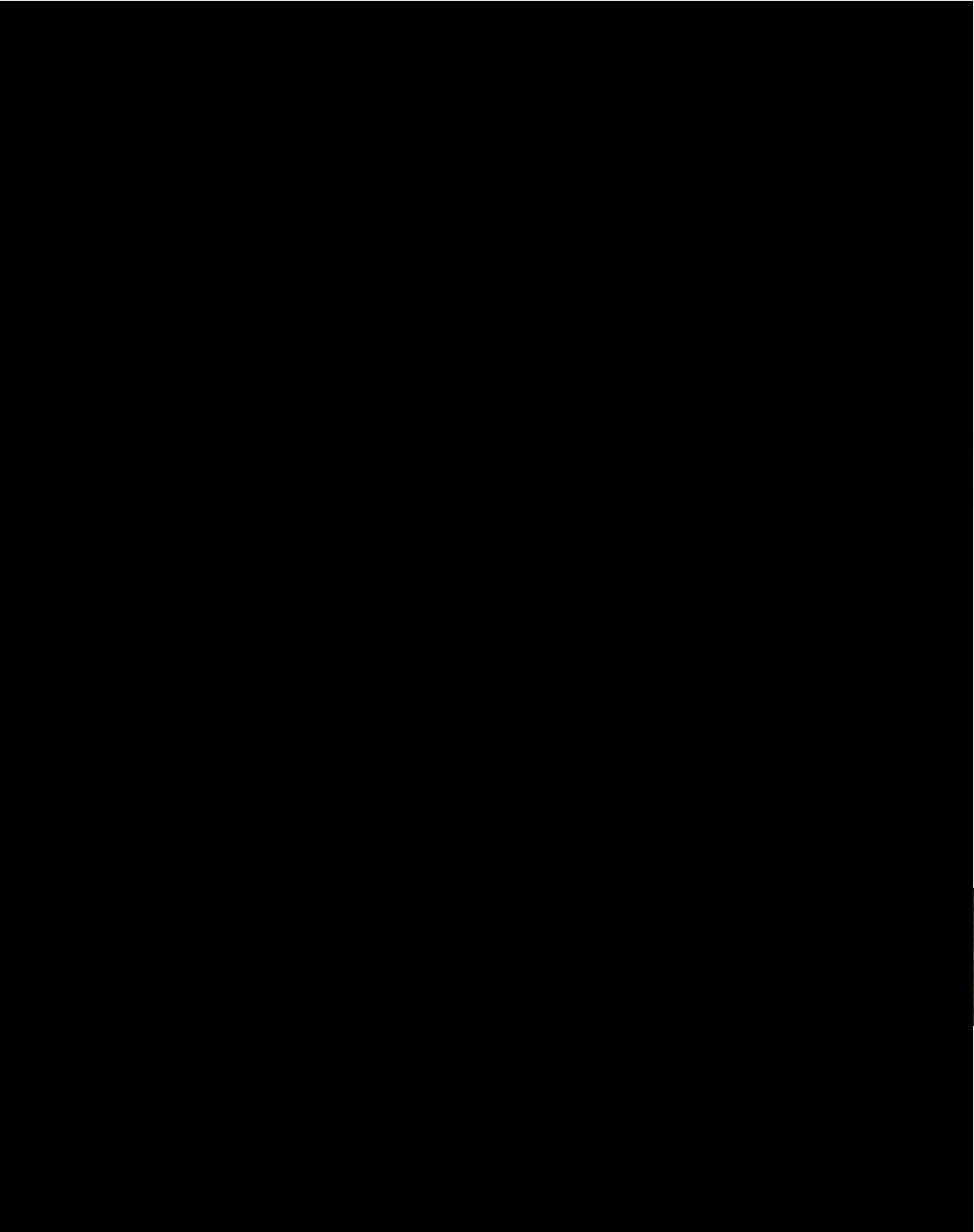
Date registered: June 6, 1995

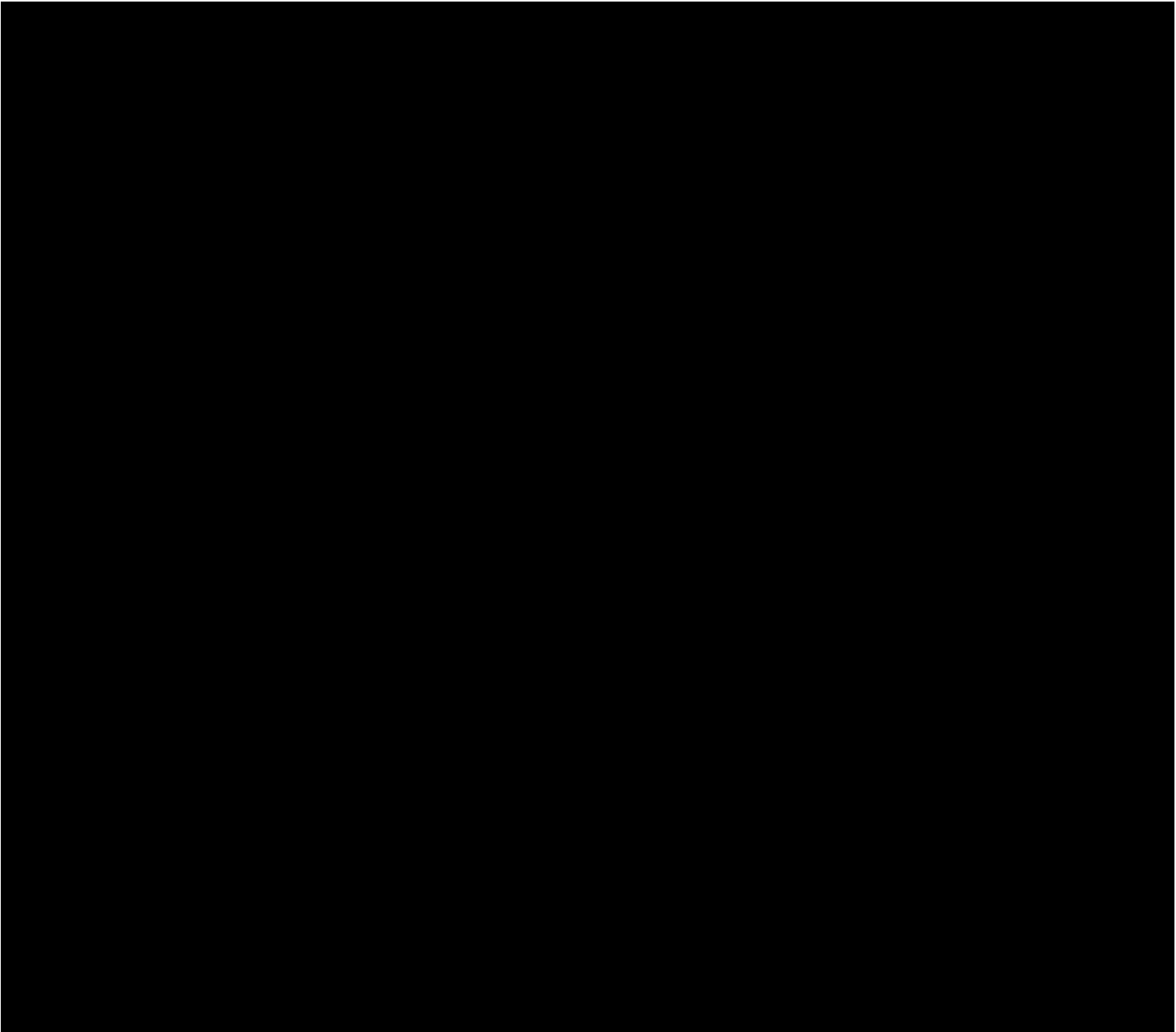
	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
	X	

PARTY OFFERING: PETITIONER

**Exhibit 11 to the TTAB Discovery Deposition Transcript of  
Michael Harris, dated September 14, 2017**







**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

Date registered: June 6, 1995

-----	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----	X	

PARTY DESIGNATION: See Exhibit Cover Sheets

**Designated TTAB Discovery Deposition Transcript of  
Michael Harris, dated September 14, 2017  
Part 4 of 6**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

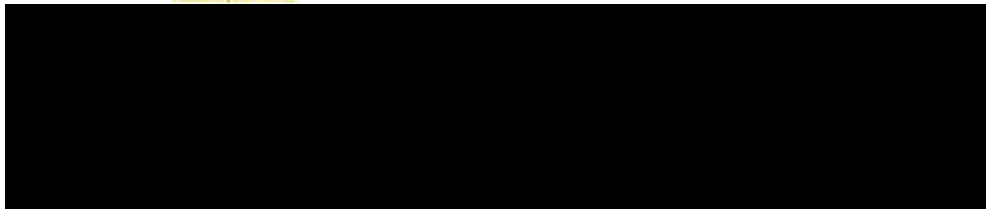
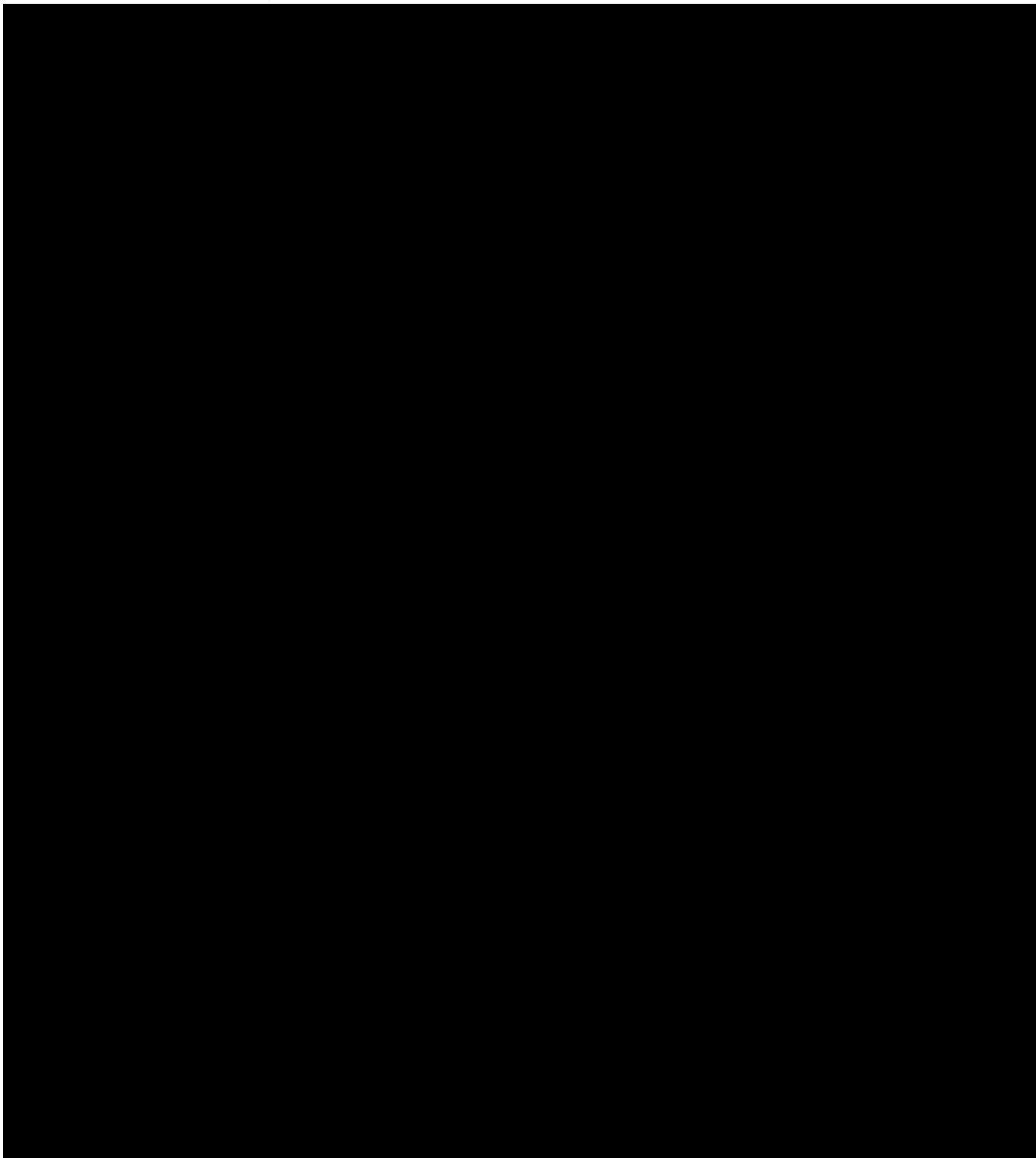
For the mark COHIBA

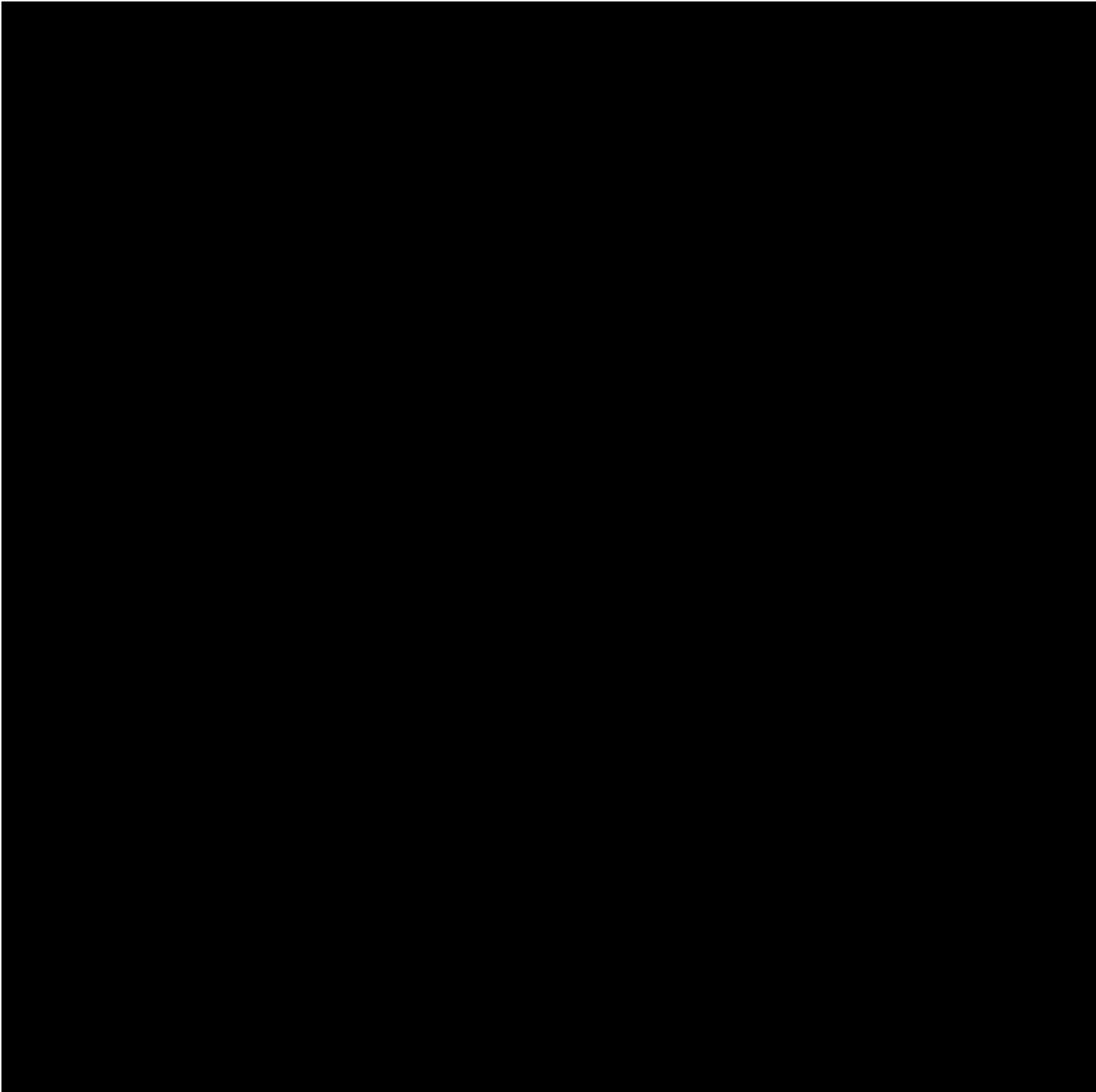
Date registered: June 6, 1995

-----	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----	X	

PARTY OFFERING: PETITIONER

**Exhibit 12 to the TTAB Discovery Deposition Transcript of  
Michael Harris, dated September 14, 2017**





**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

Date registered: June 6, 1995

-----	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----	X	

PARTY OFFERING: PETITIONER

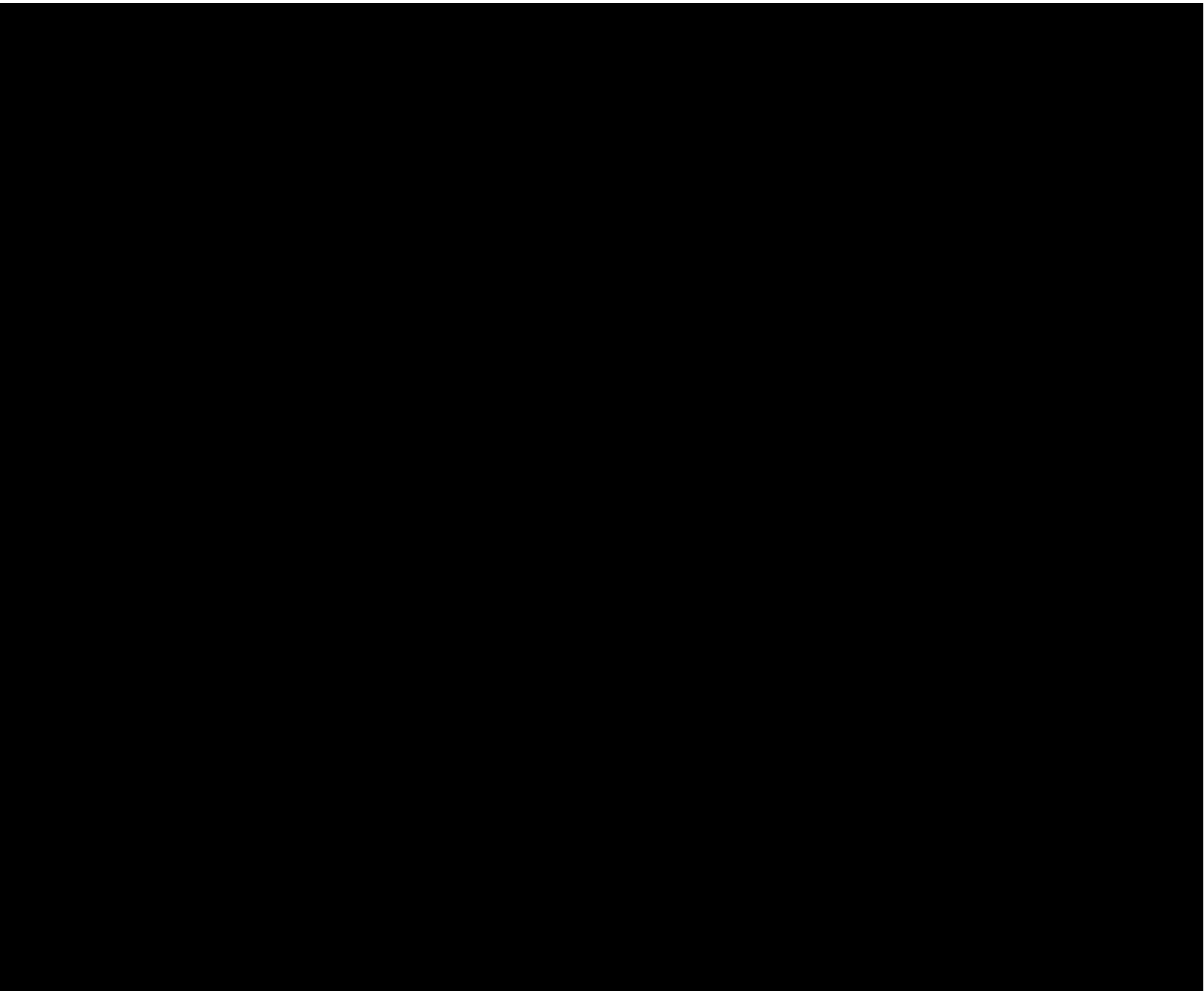
**Exhibit 13 to the TTAB Discovery Deposition Transcript of  
Michael Harris, dated September 14, 2017**

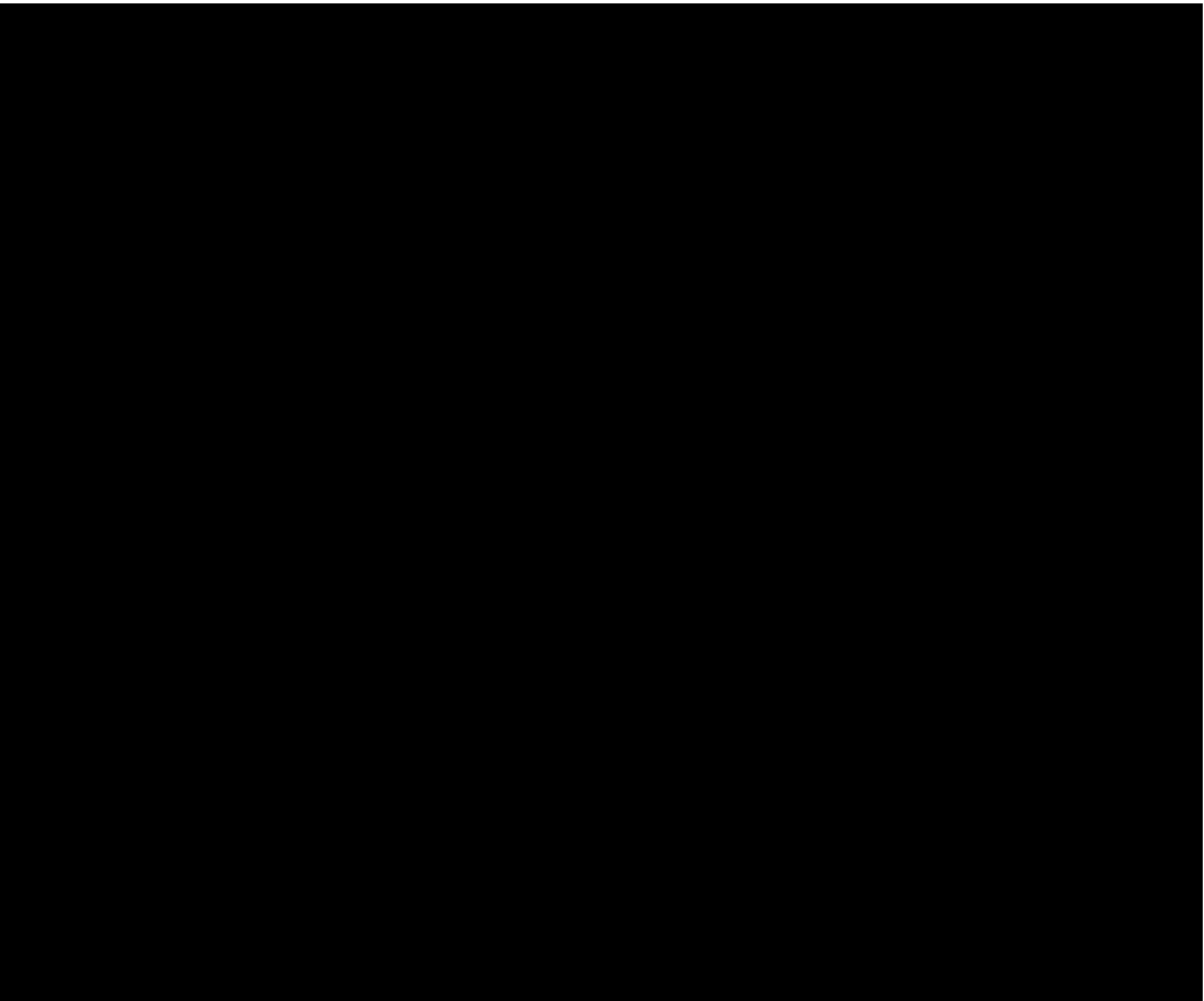
814-17

Confidential - Attorney's Eyes Only (Trade Secret/Commercially Sensitive)

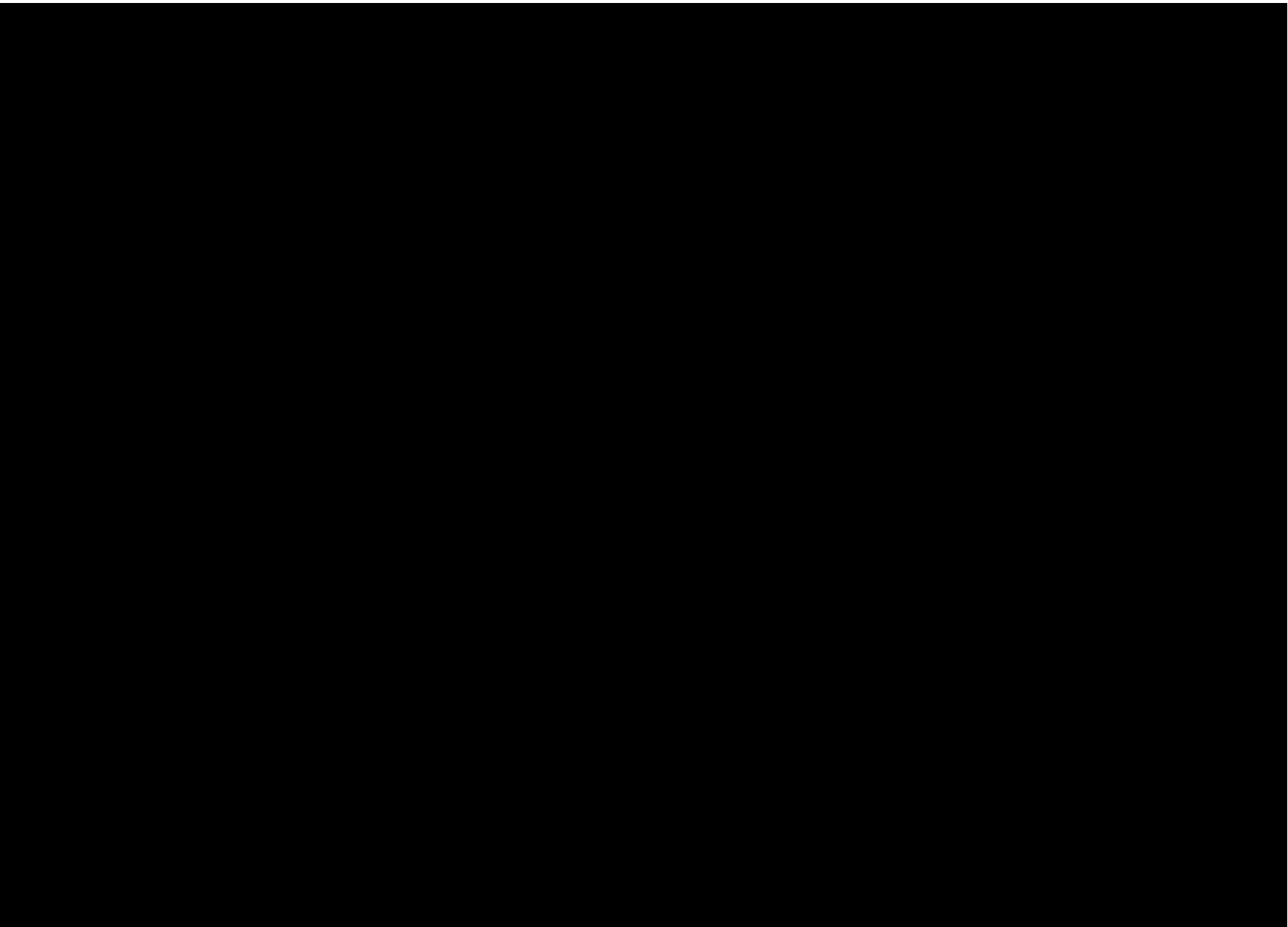
MS0014400

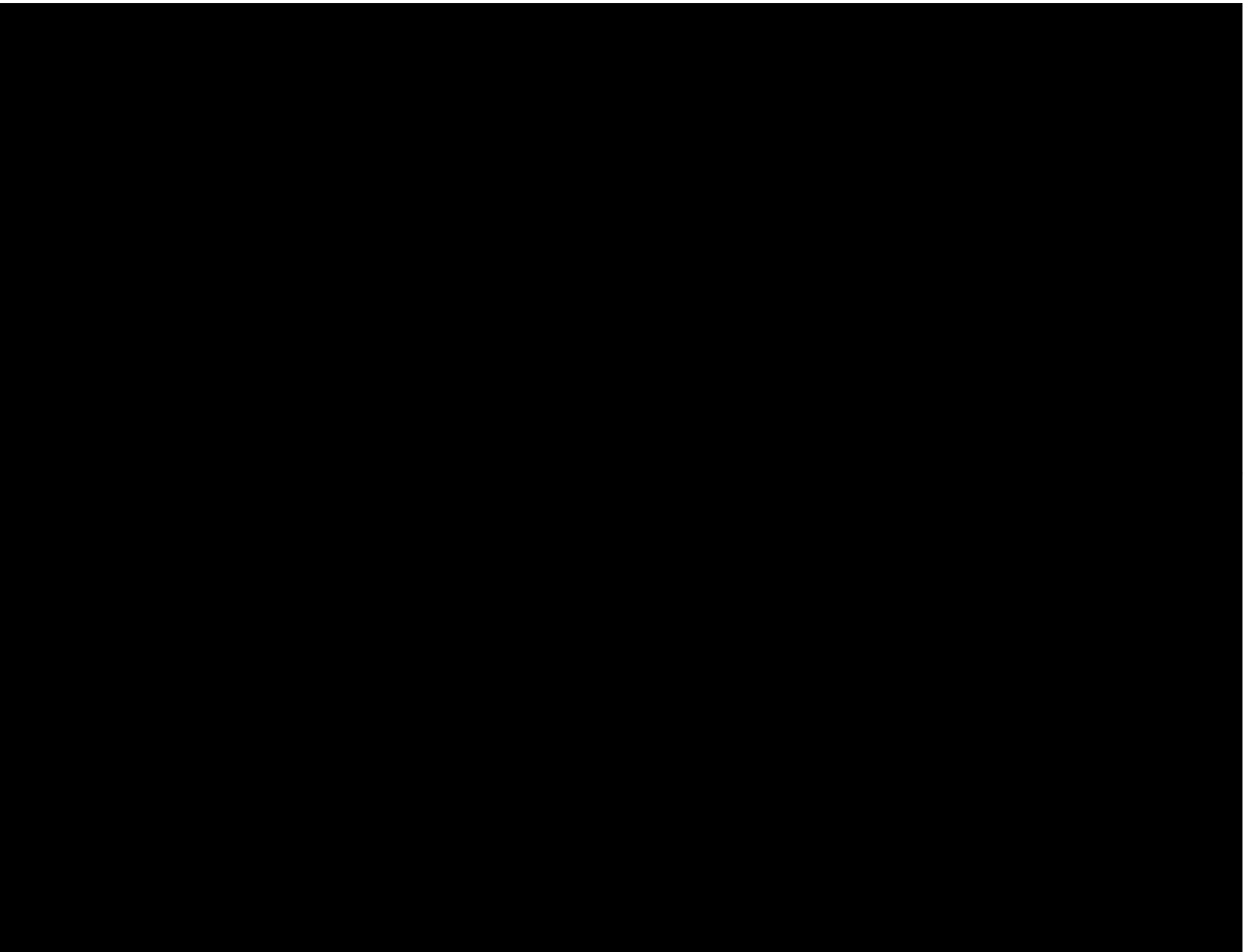


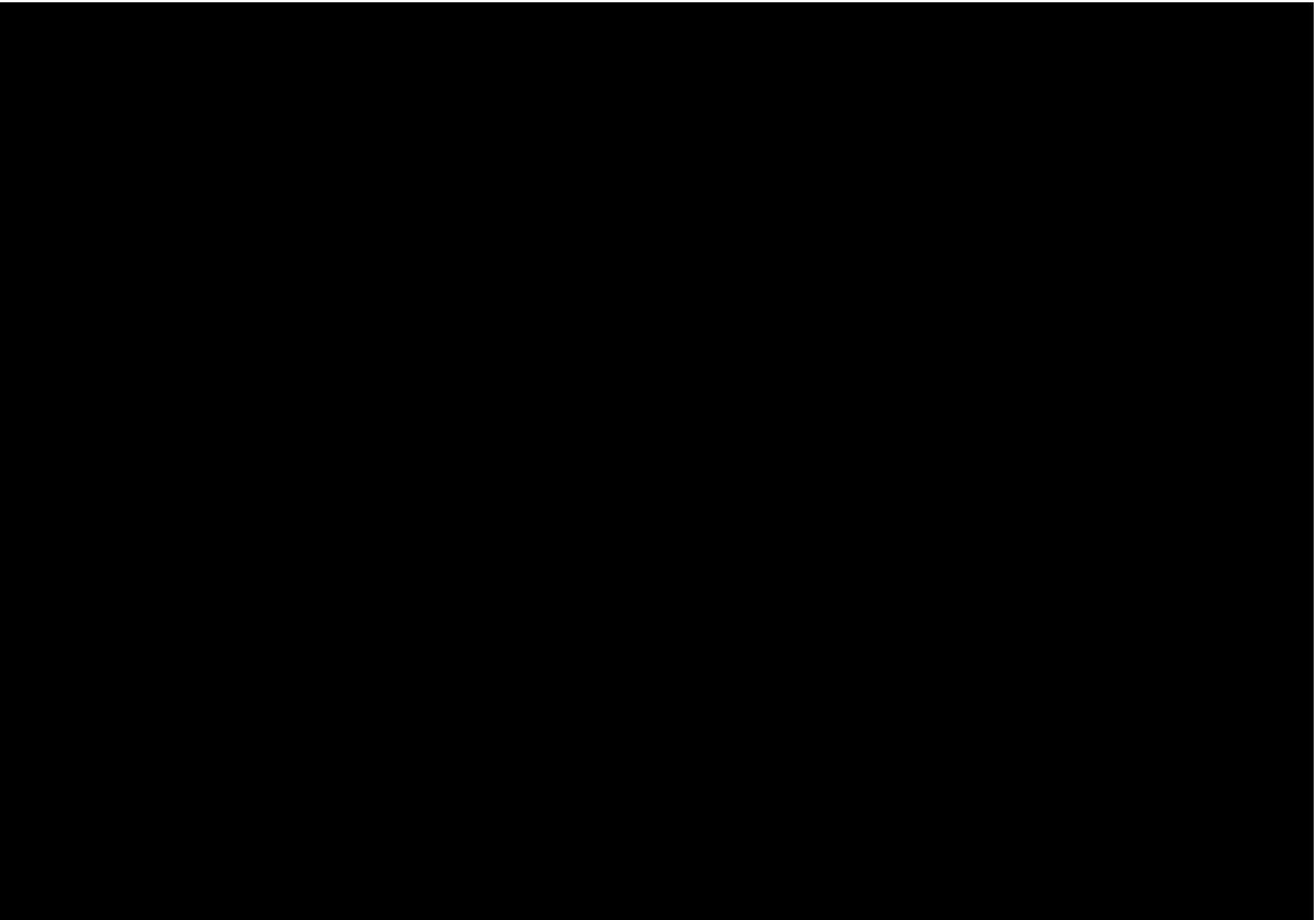












**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

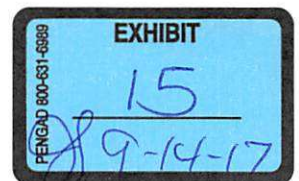
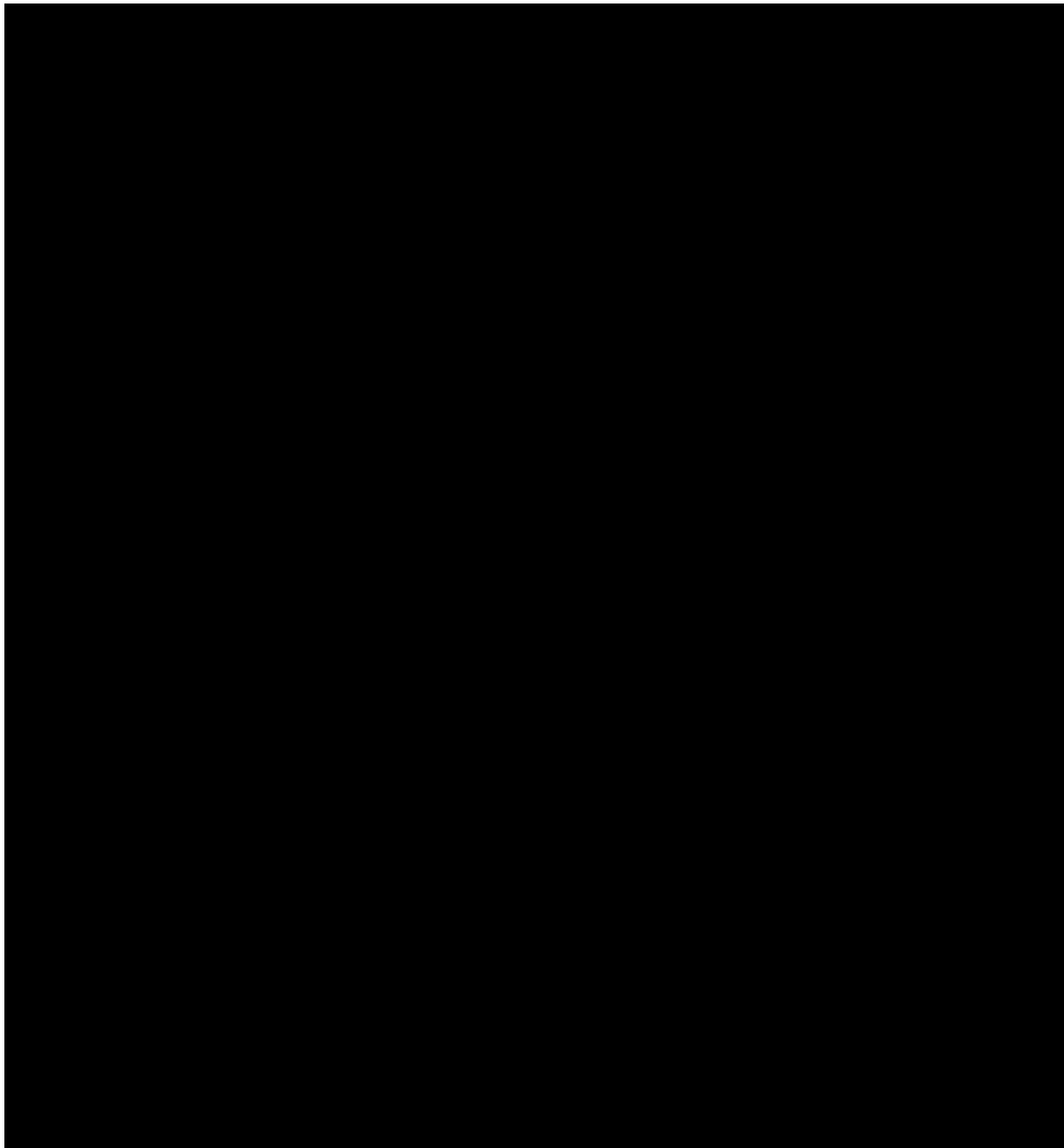
For the mark COHIBA

Date registered: June 6, 1995

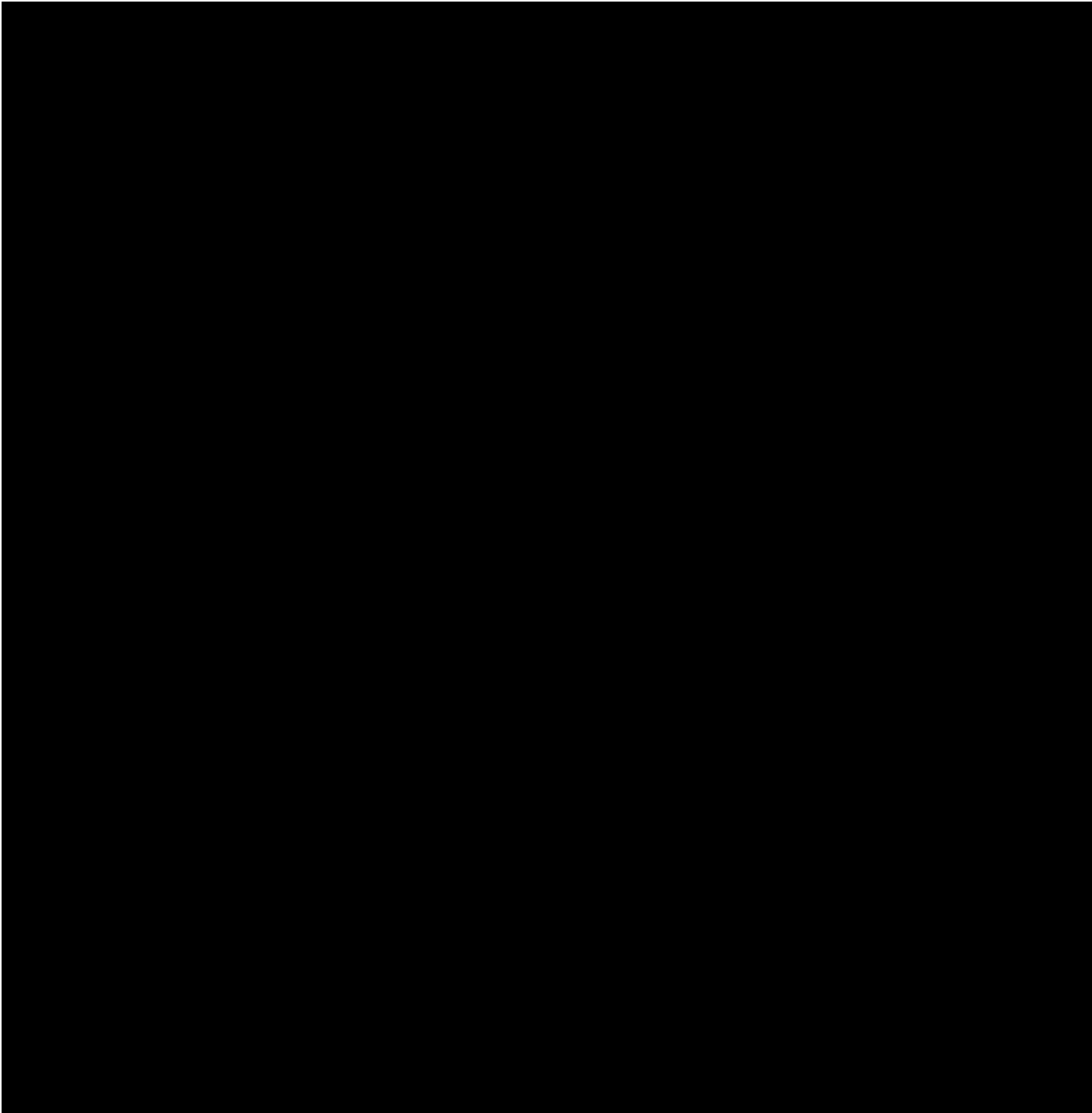
-----		X
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----		X

PARTY OFFERING: PETITIONER

**Exhibit 15 to the TTAB Discovery Deposition Transcript of  
Michael Harris, dated September 14, 2017**







**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

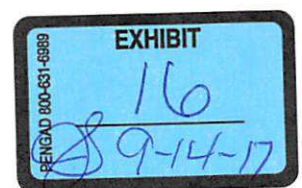
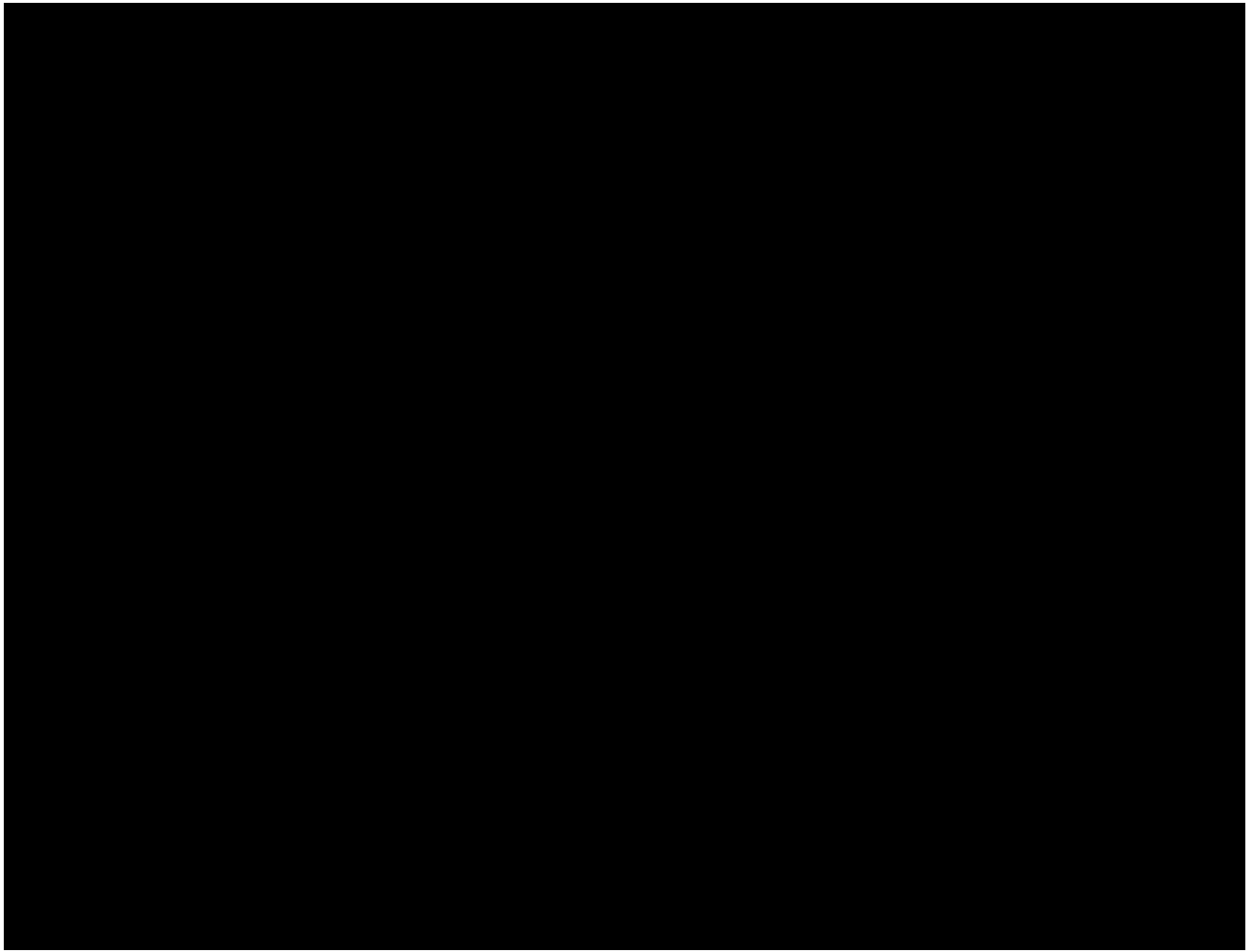
For the mark COHIBA

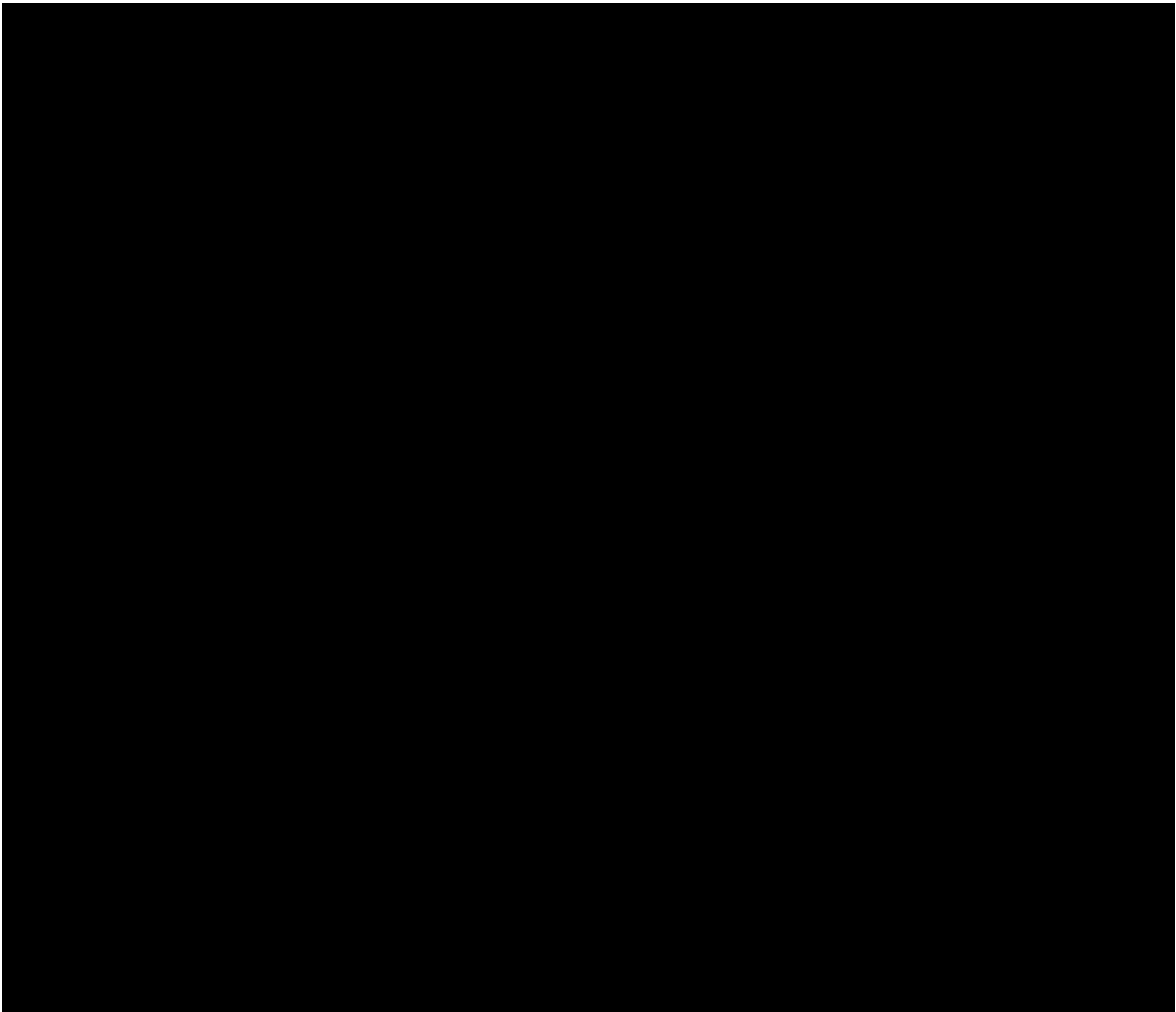
Date registered: June 6, 1995

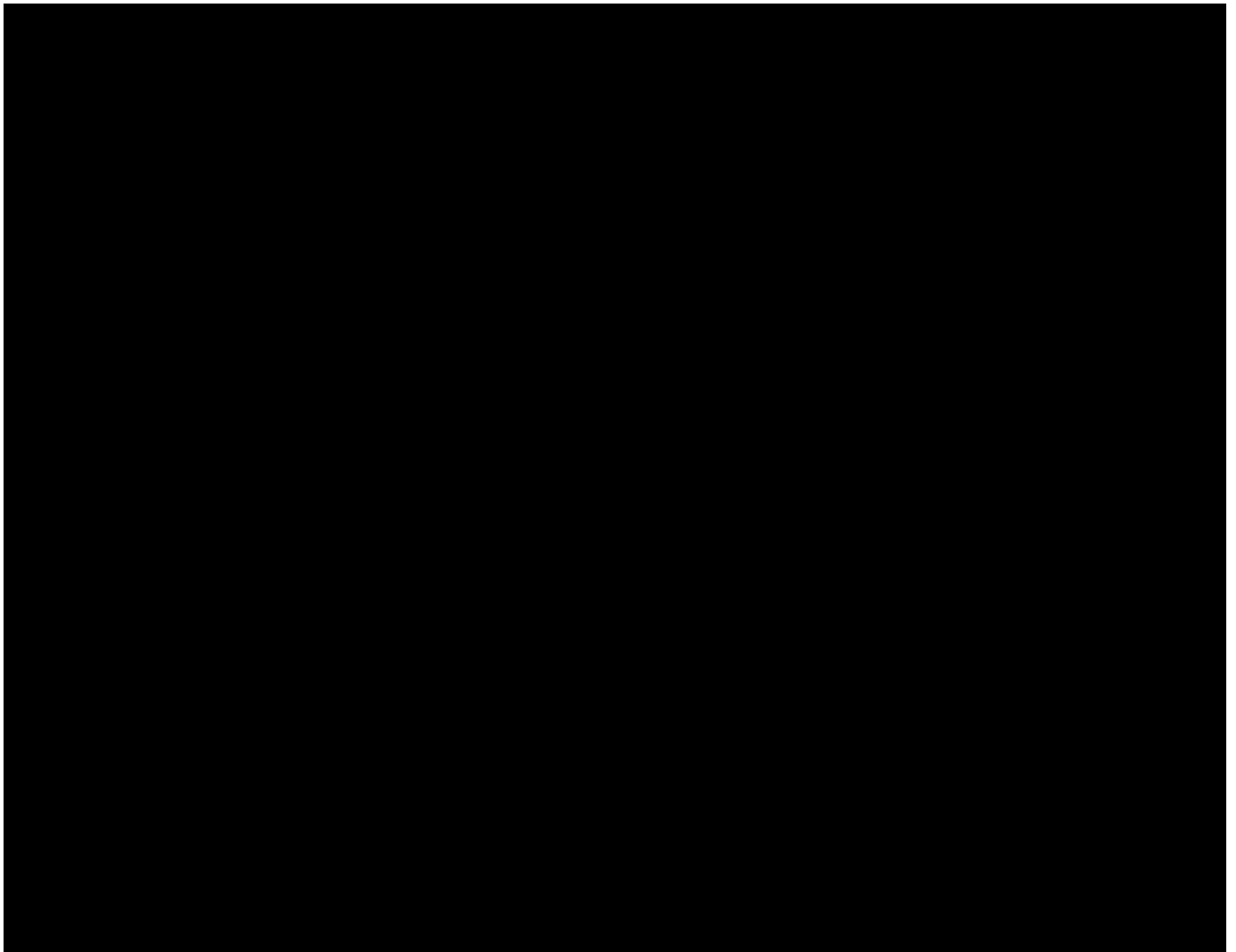
-----	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----	X	

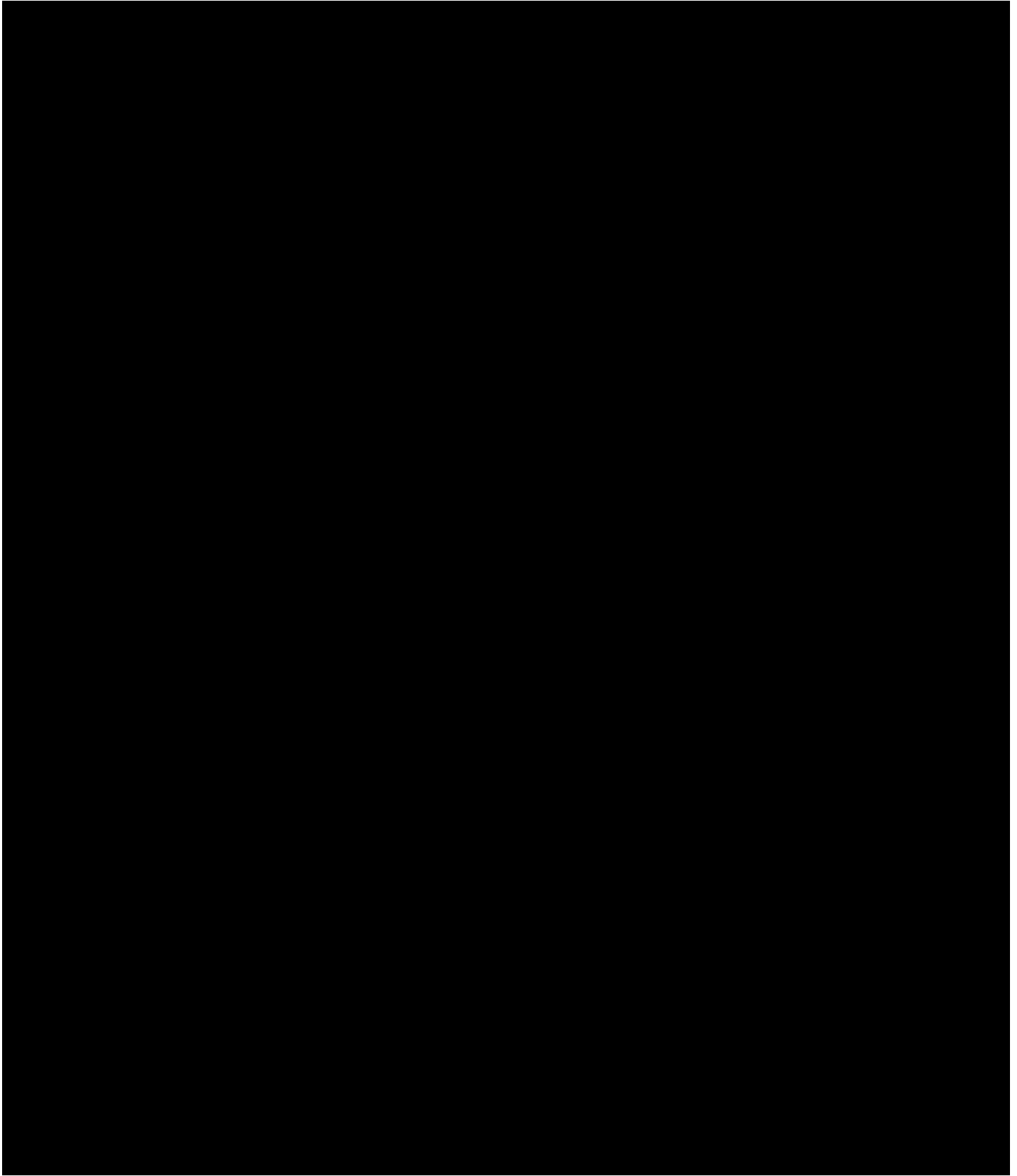
PARTY OFFERING: PETITIONER

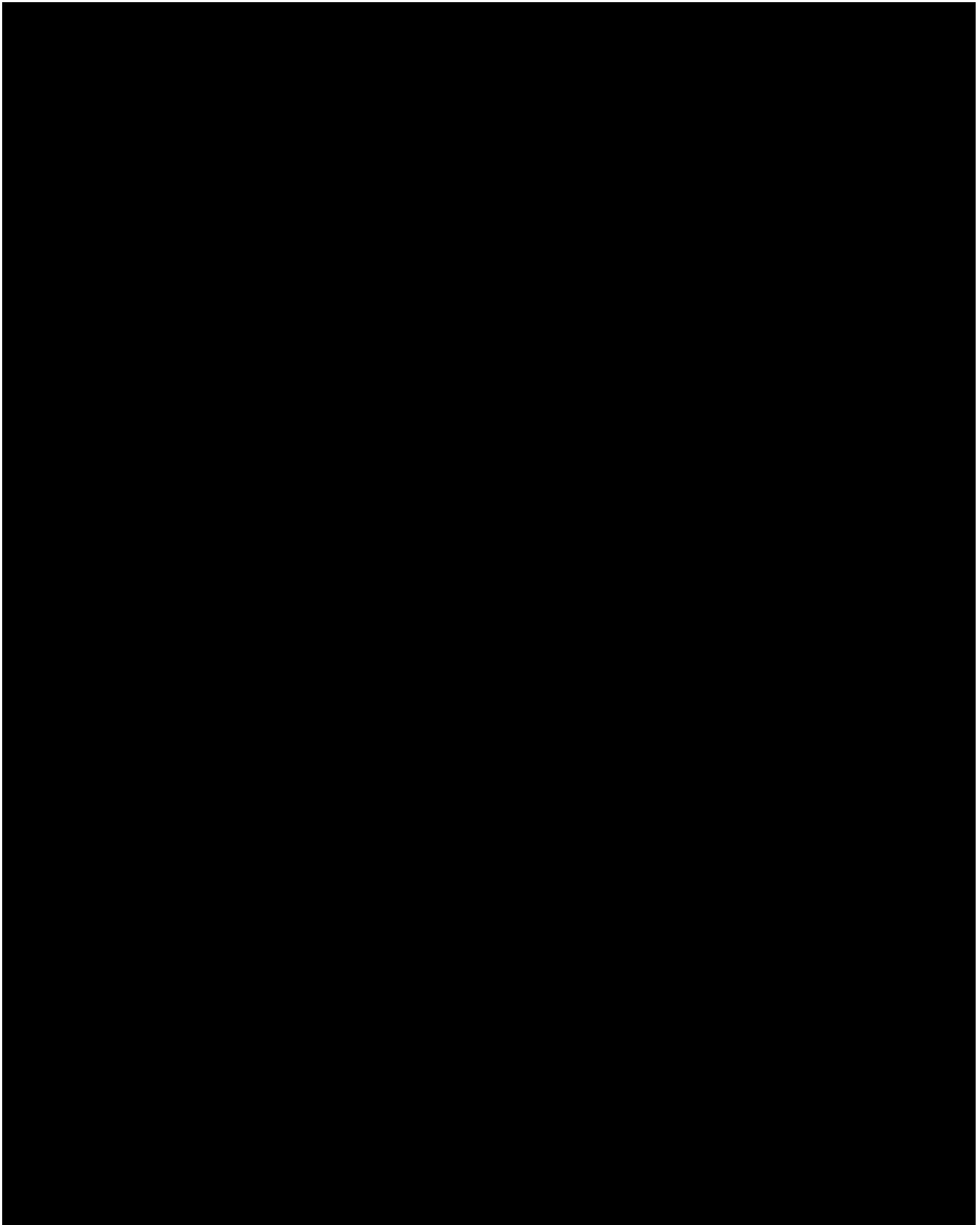
**Exhibit 16 to the TTAB Discovery Deposition Transcript of  
Michael Harris, dated September 14, 2017**

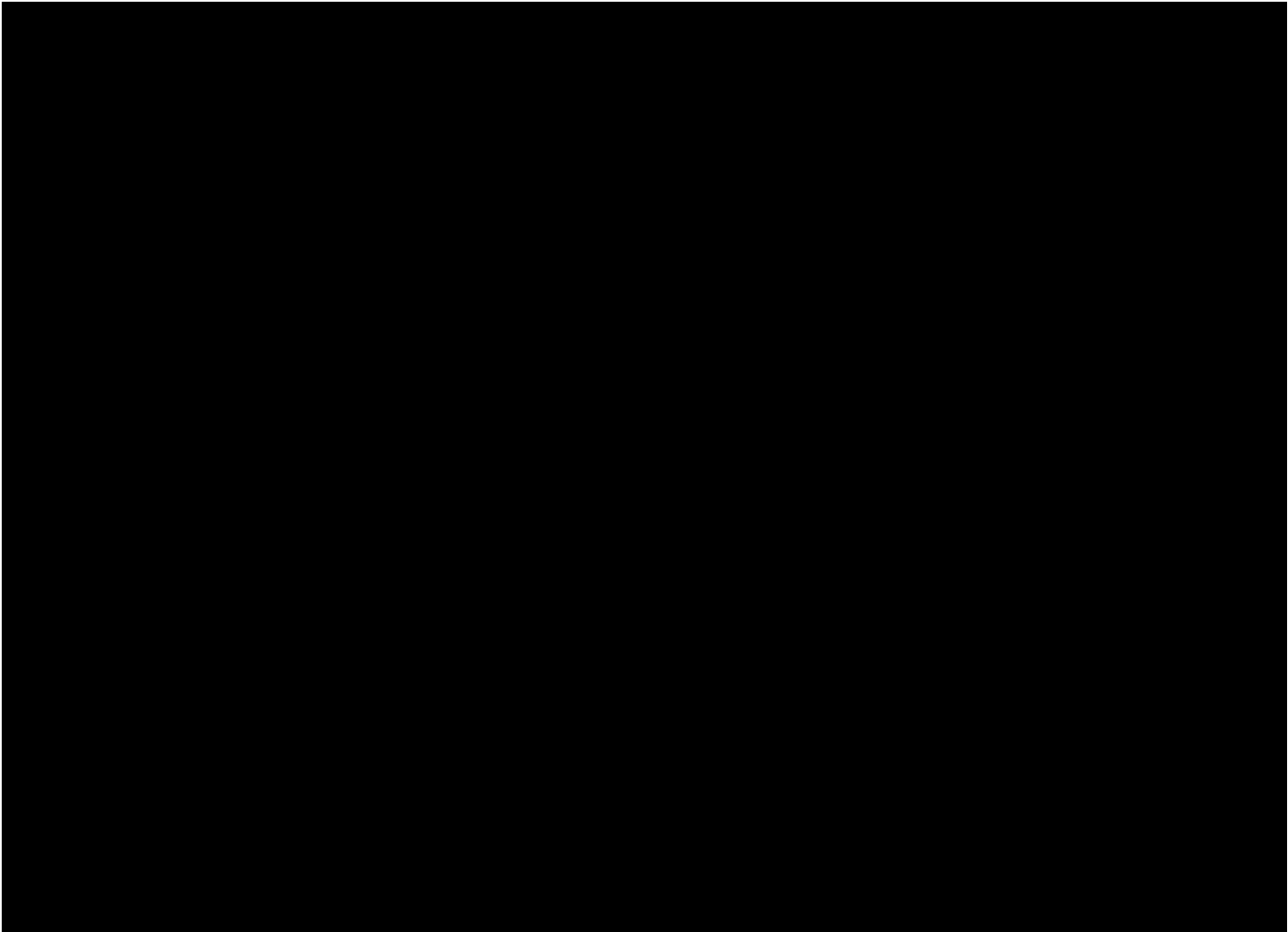




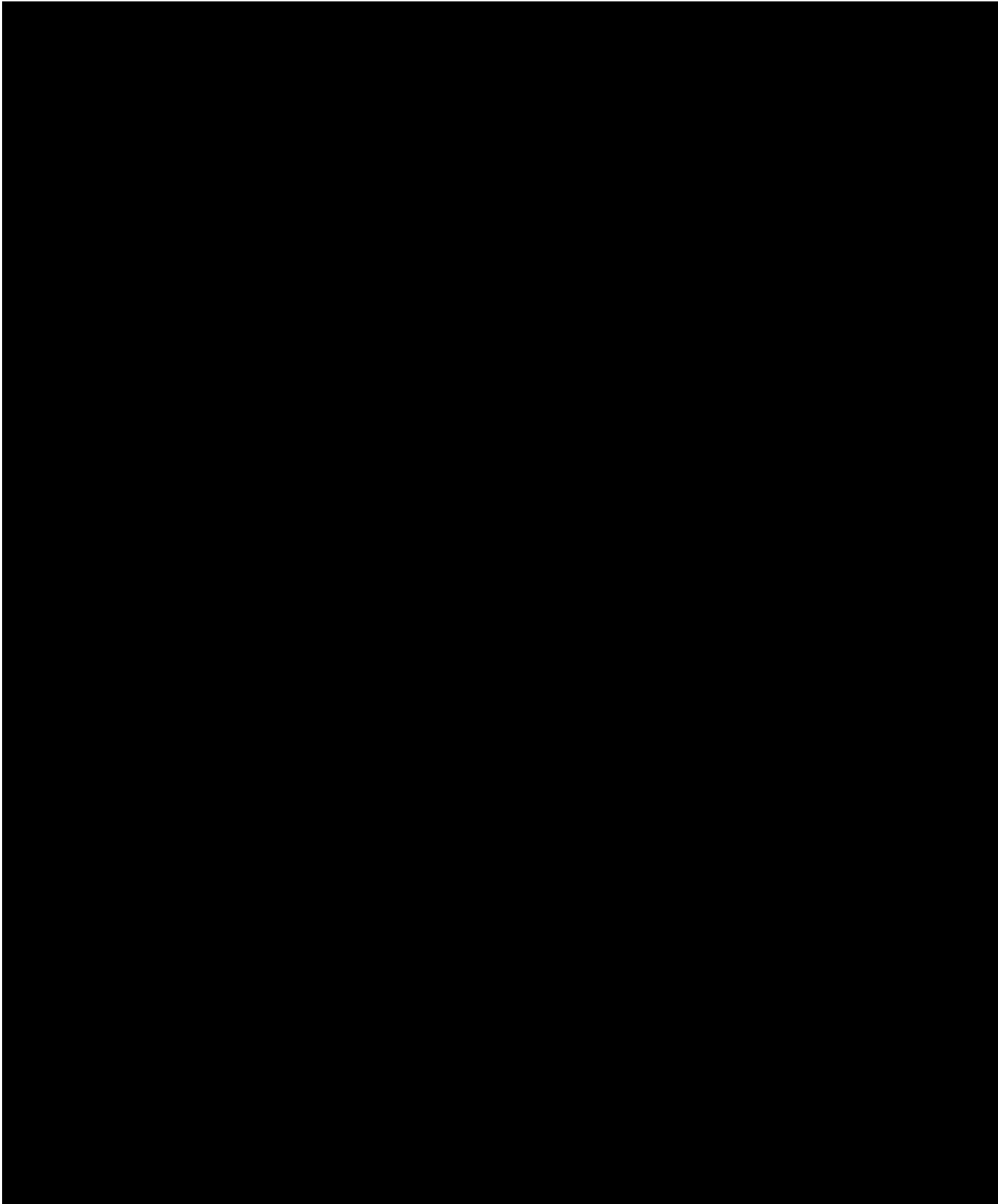


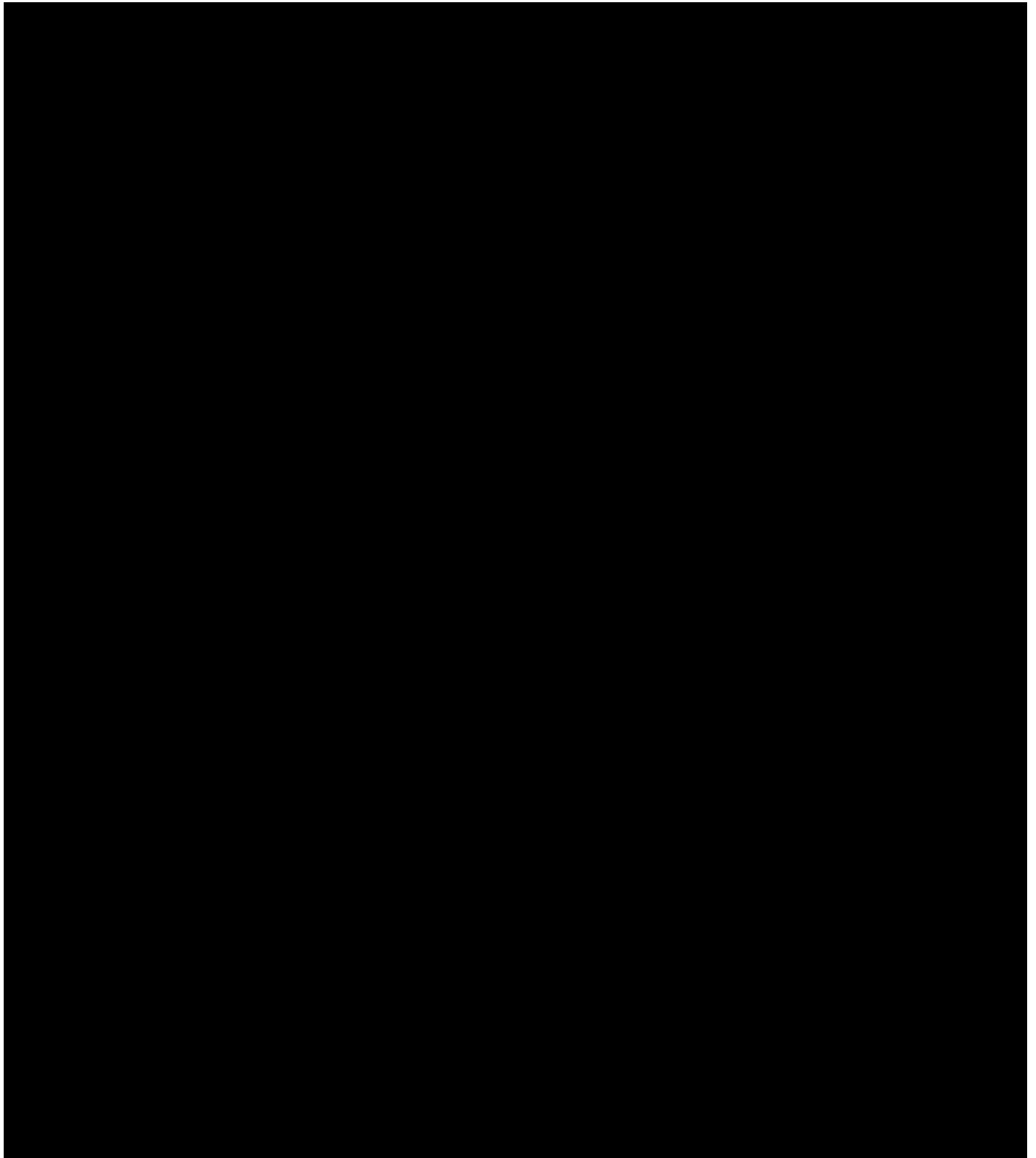


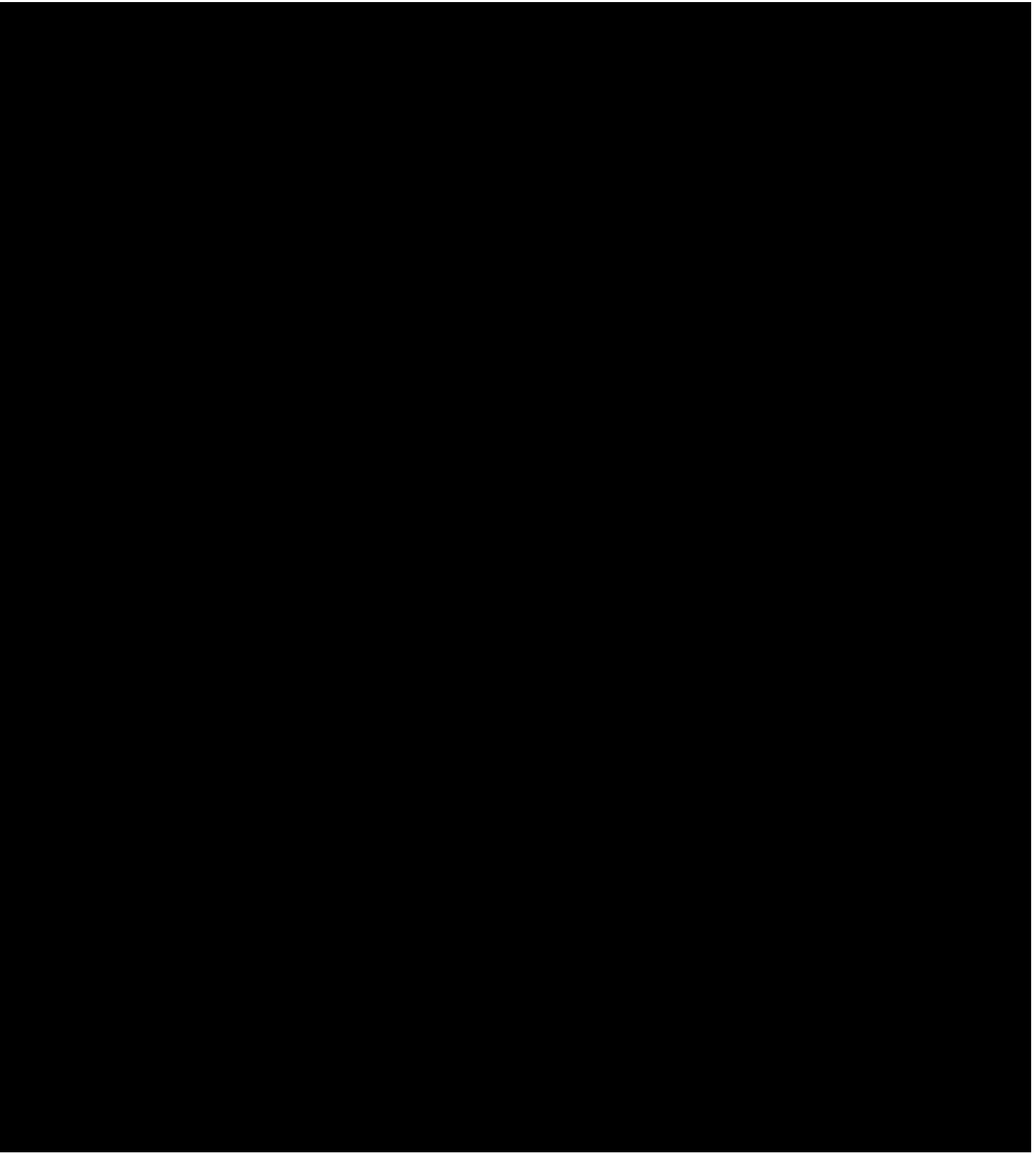


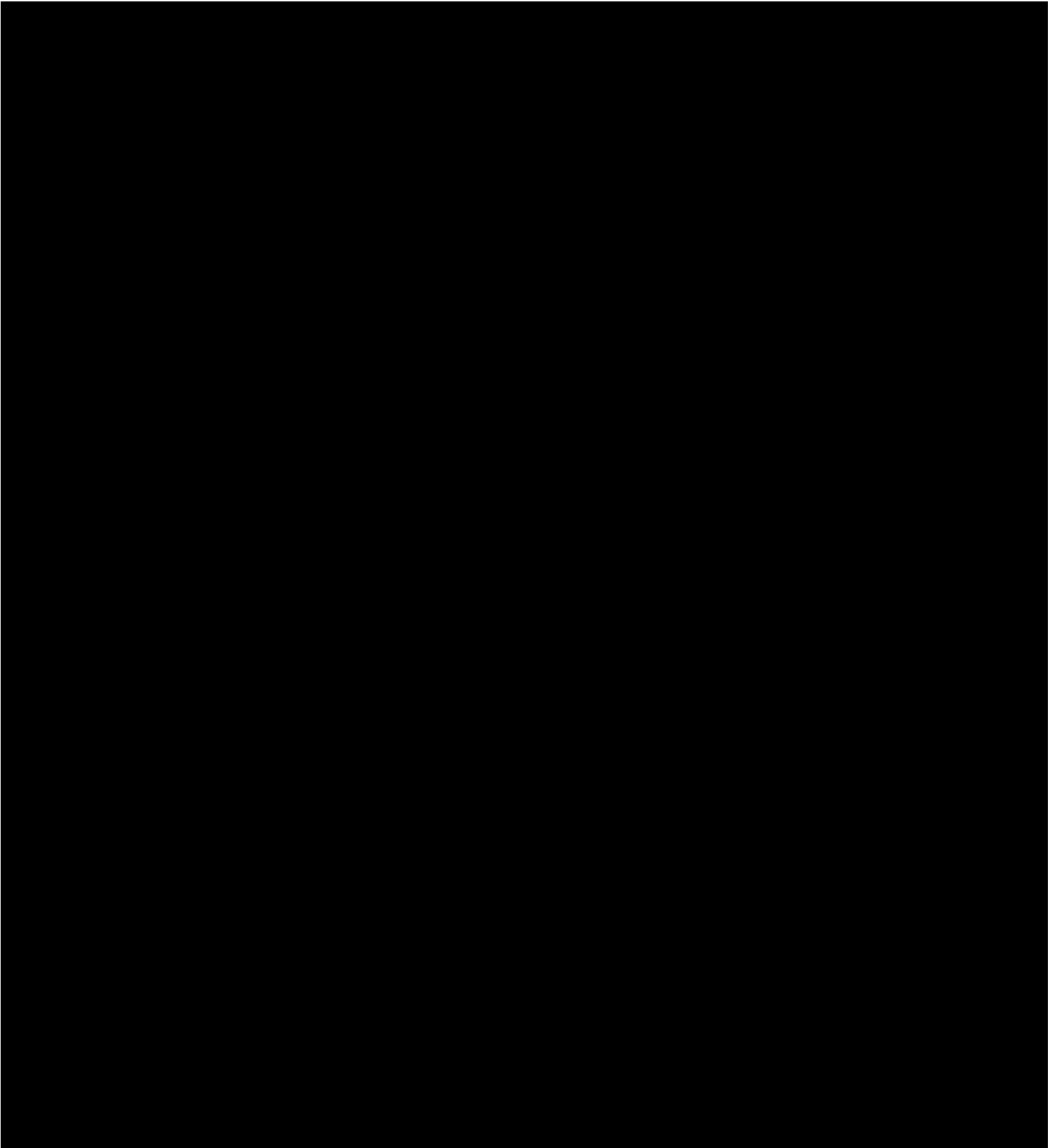




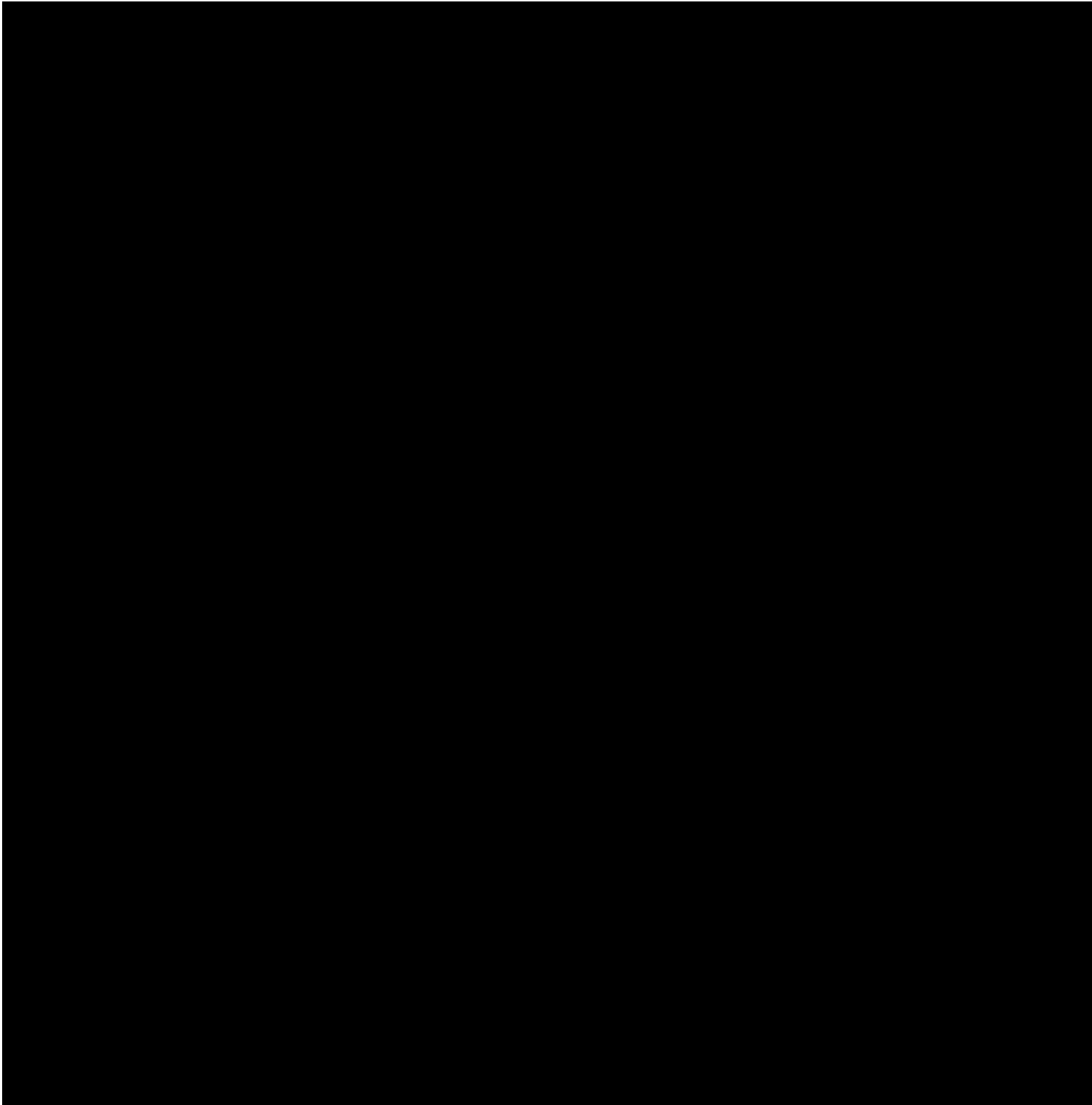












**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

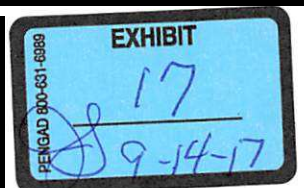
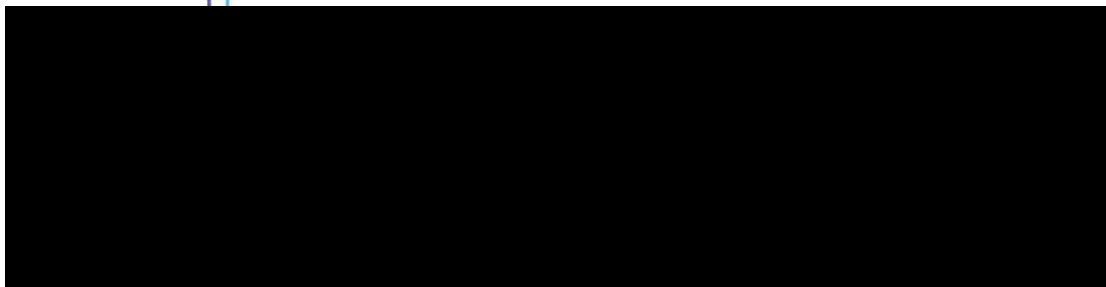
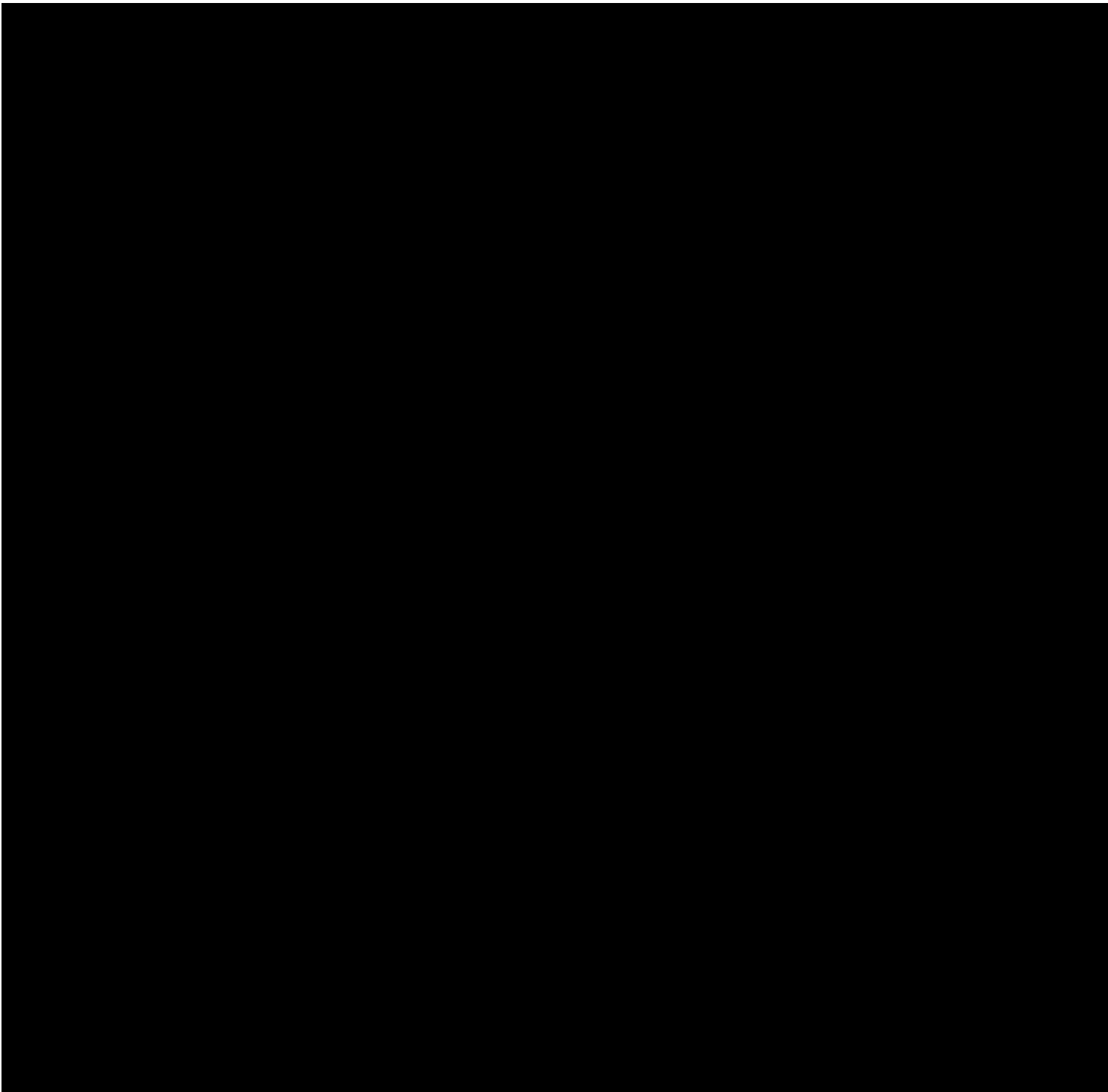
For the mark COHIBA

Date registered: June 6, 1995

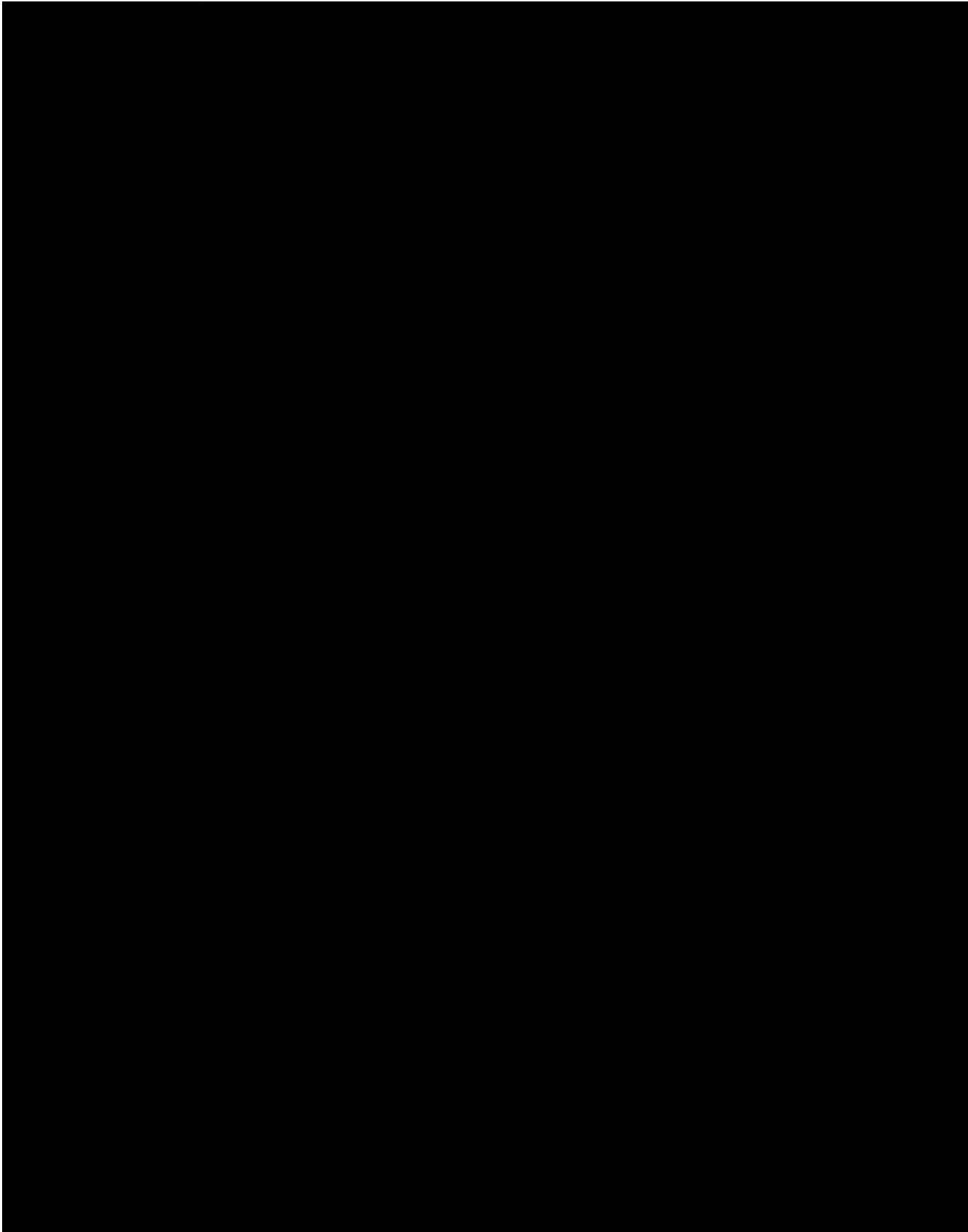
-----	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----	X	

PARTY OFFERING: PETITIONER

**Exhibit 17 to the TTAB Discovery Deposition Transcript of  
Michael Harris, dated September 14, 2017**







**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

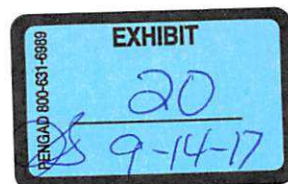
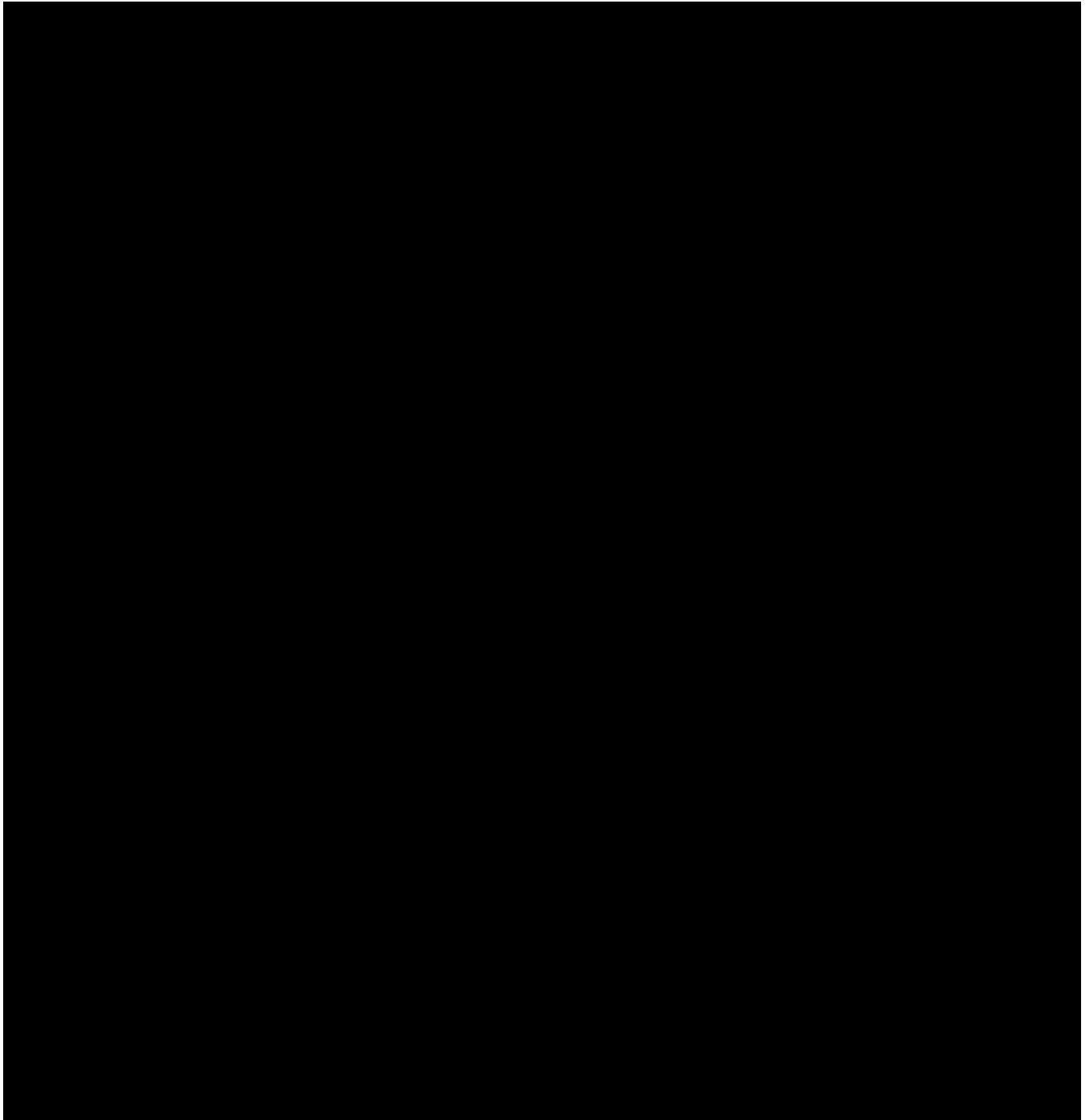
For the mark COHIBA

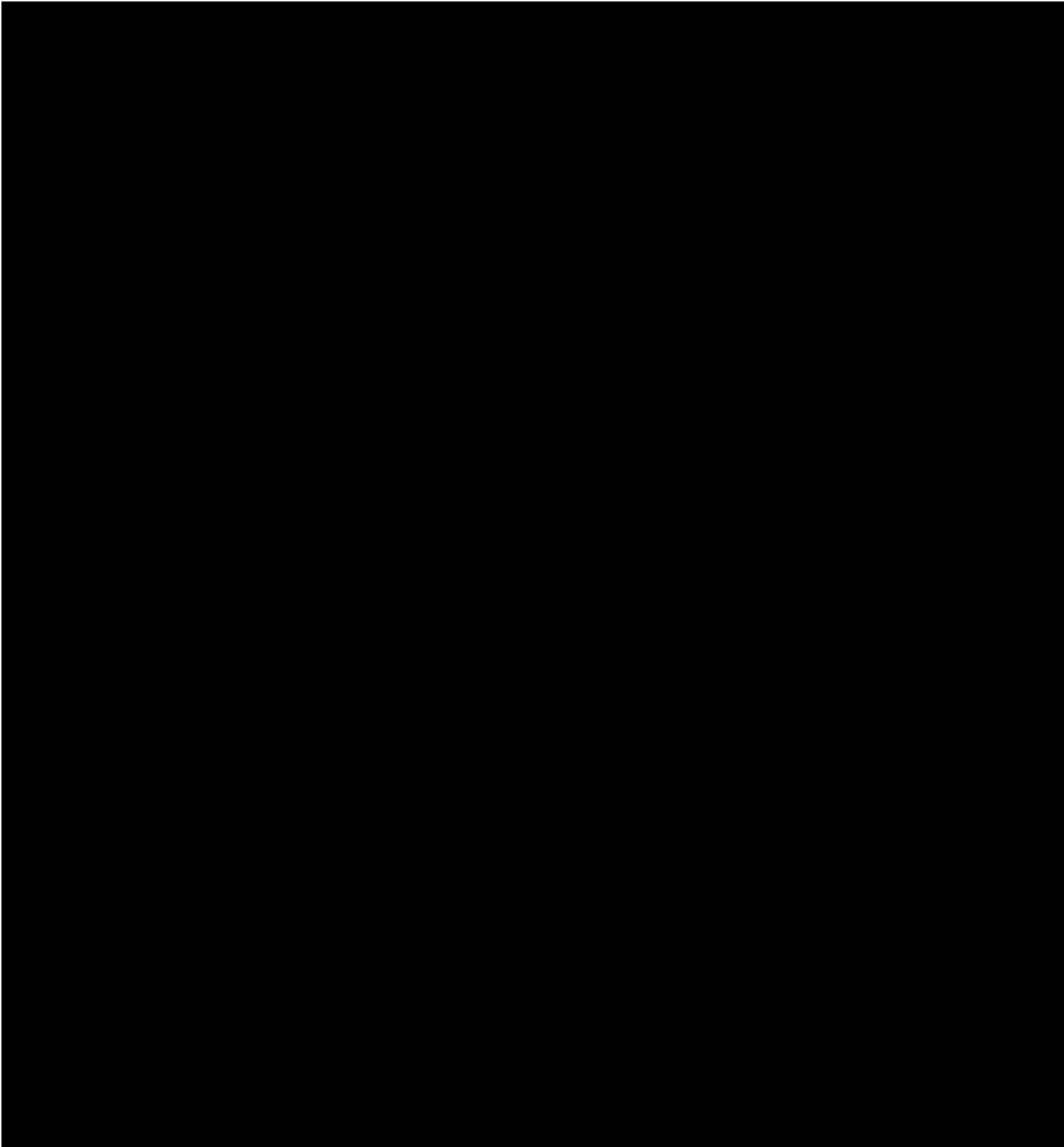
Date registered: June 6, 1995

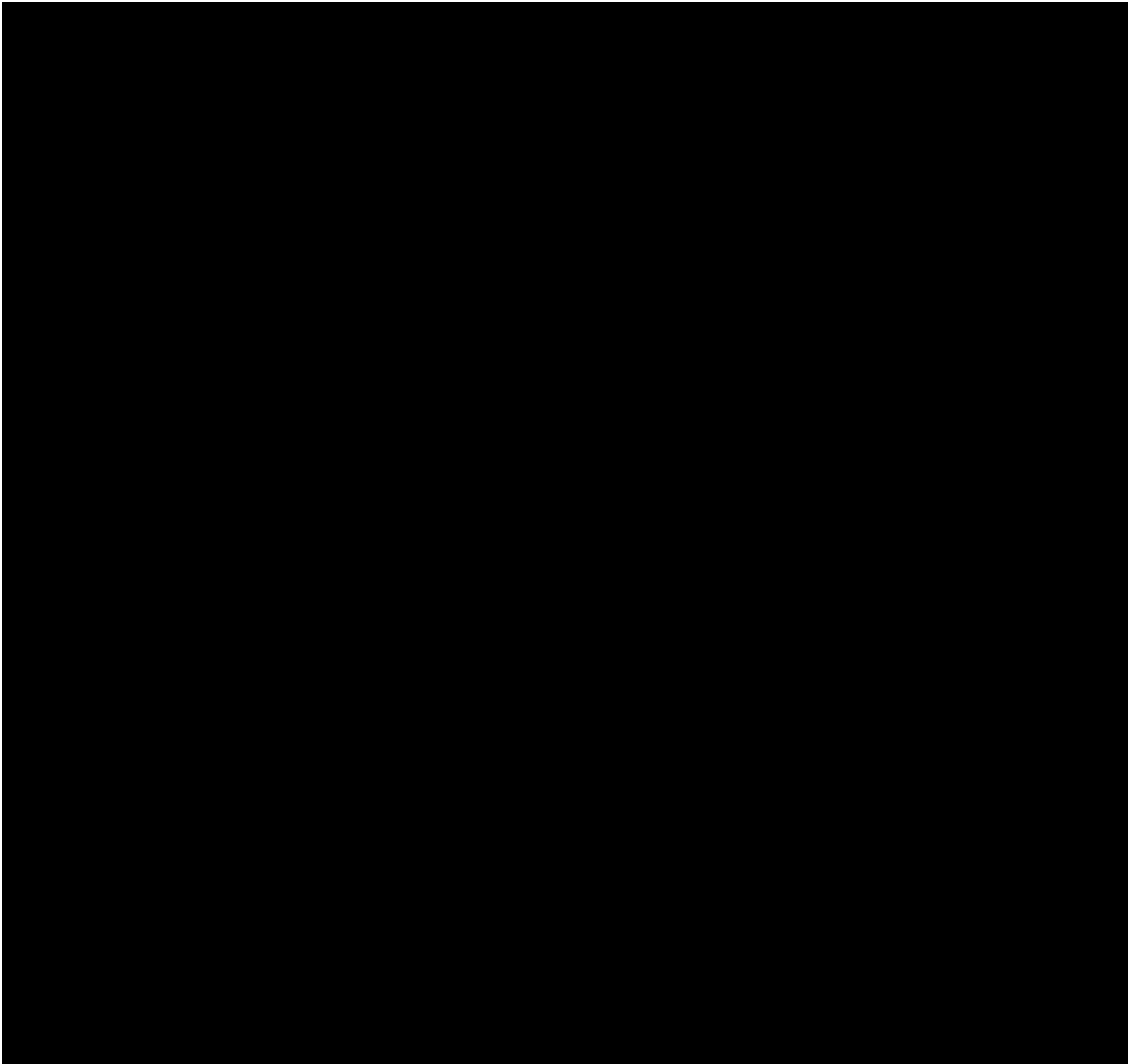
-----	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----	X	

PARTY OFFERING: PETITIONER

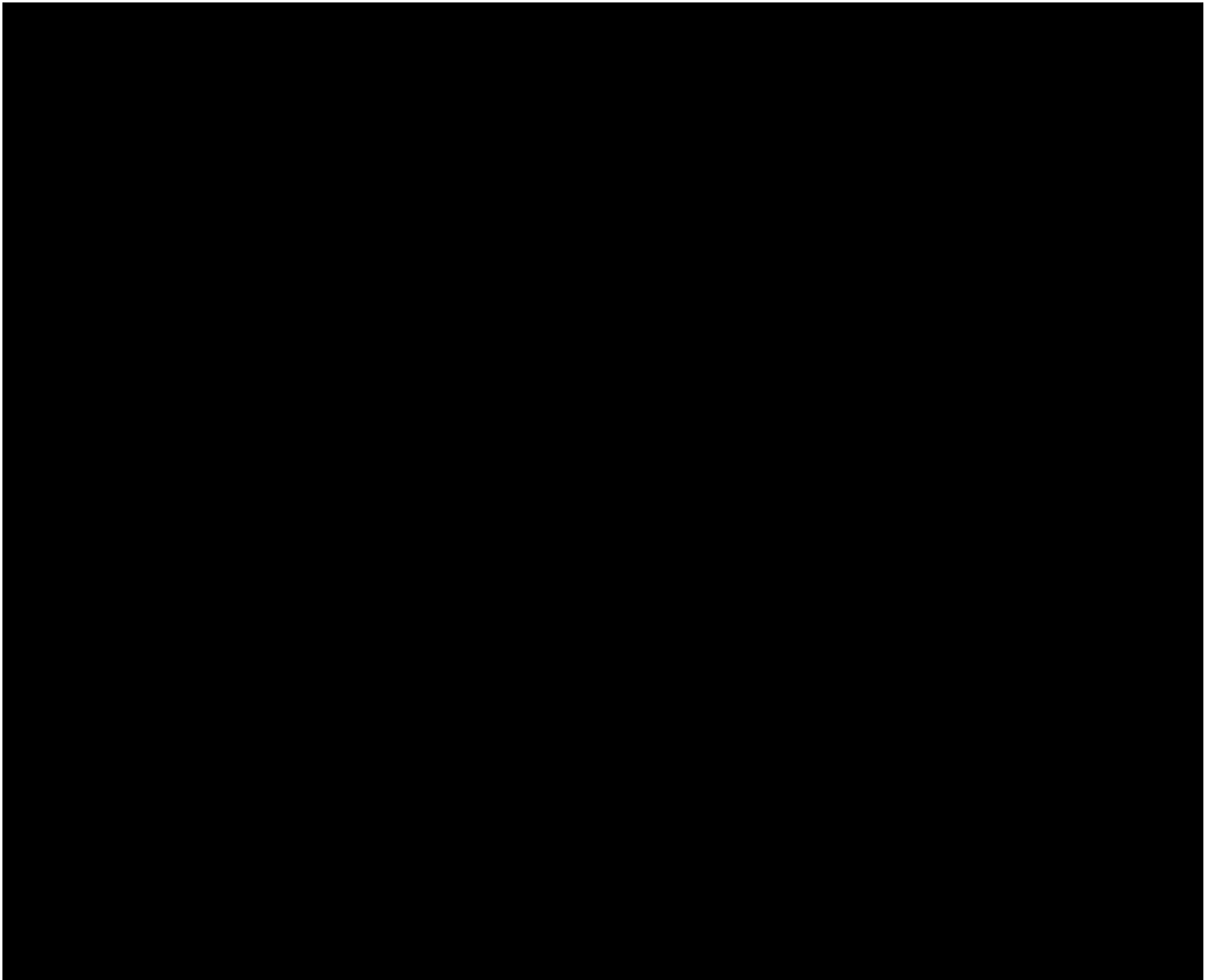
**Exhibit 20 to the TTAB Discovery Deposition Transcript of  
Michael Harris, dated September 14, 2017**







**GCC Mockup :**



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

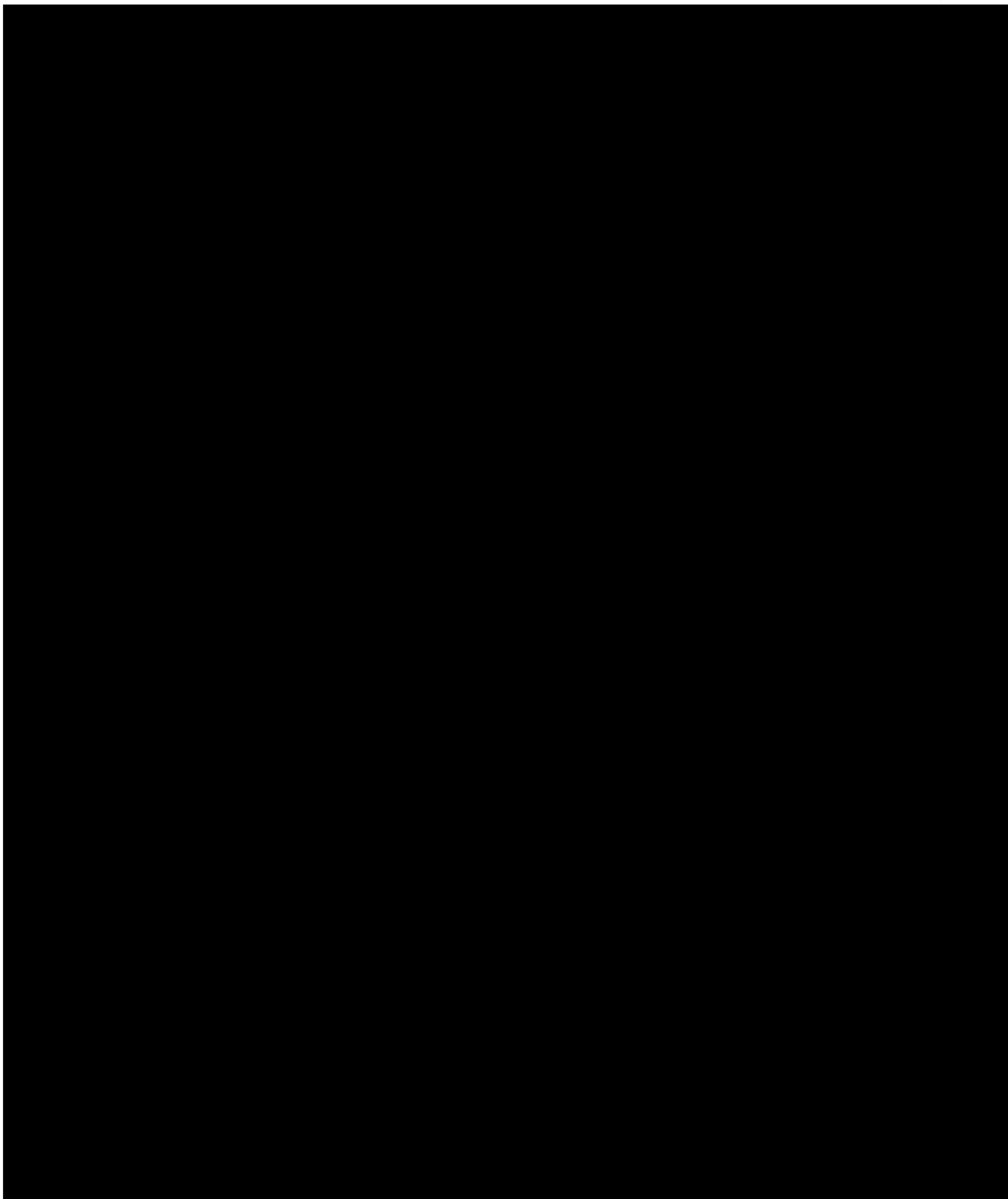
For the mark COHIBA

Date registered: June 6, 1995

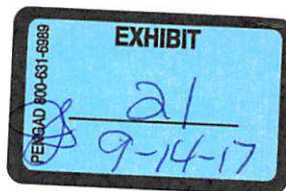
-----	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----	X	

PARTY OFFERING: PETITIONER

**Exhibit 21 to the TTAB Discovery Deposition Transcript of  
Michael Harris, dated September 14, 2017**

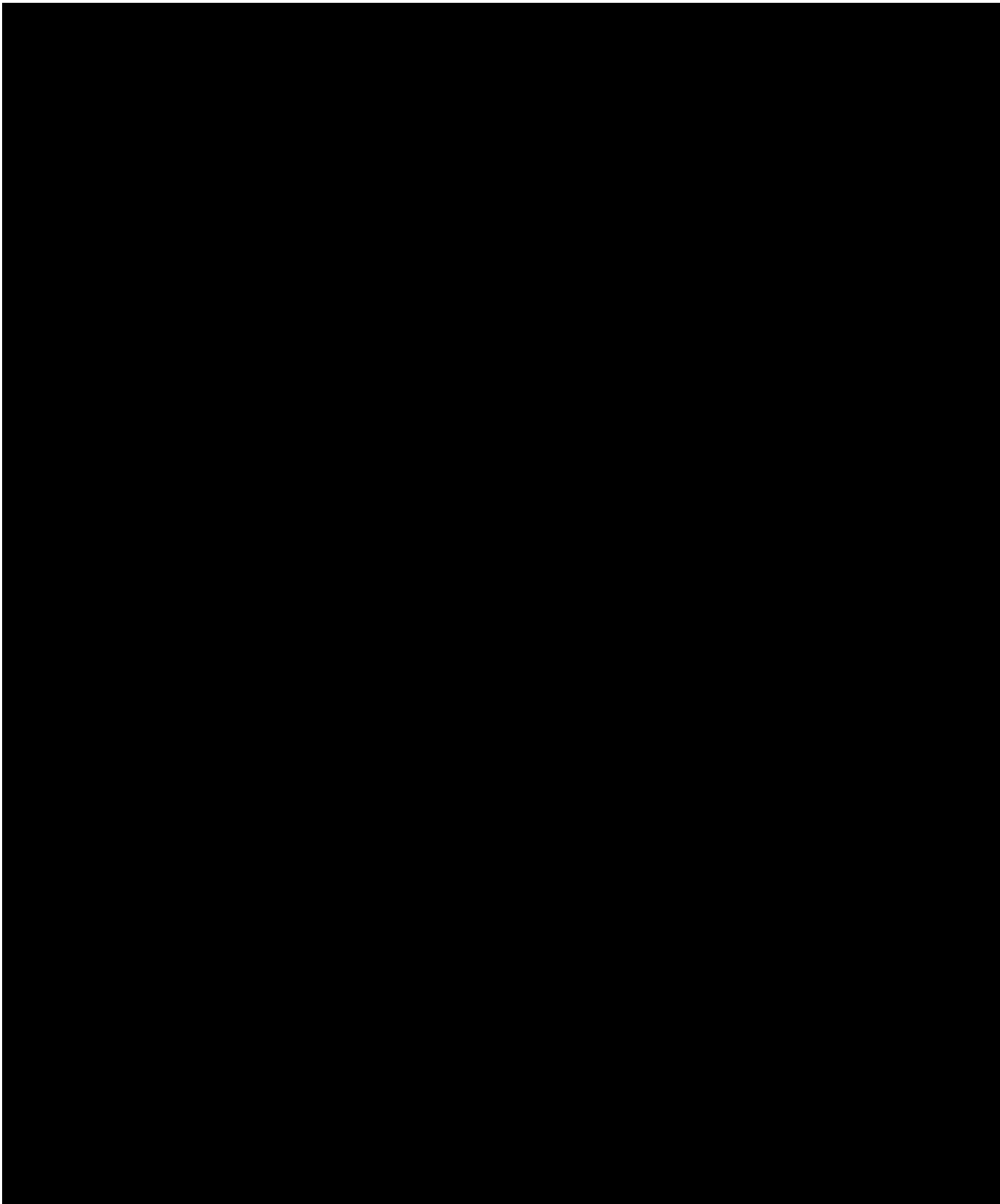


Confidential - Attorney's Eyes Only (Trade Secret/Commercially Sensitive)



MS0016147





**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

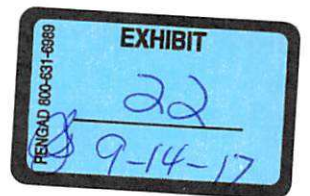
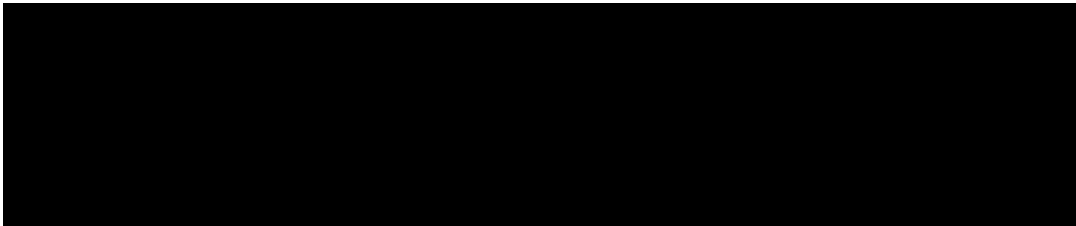
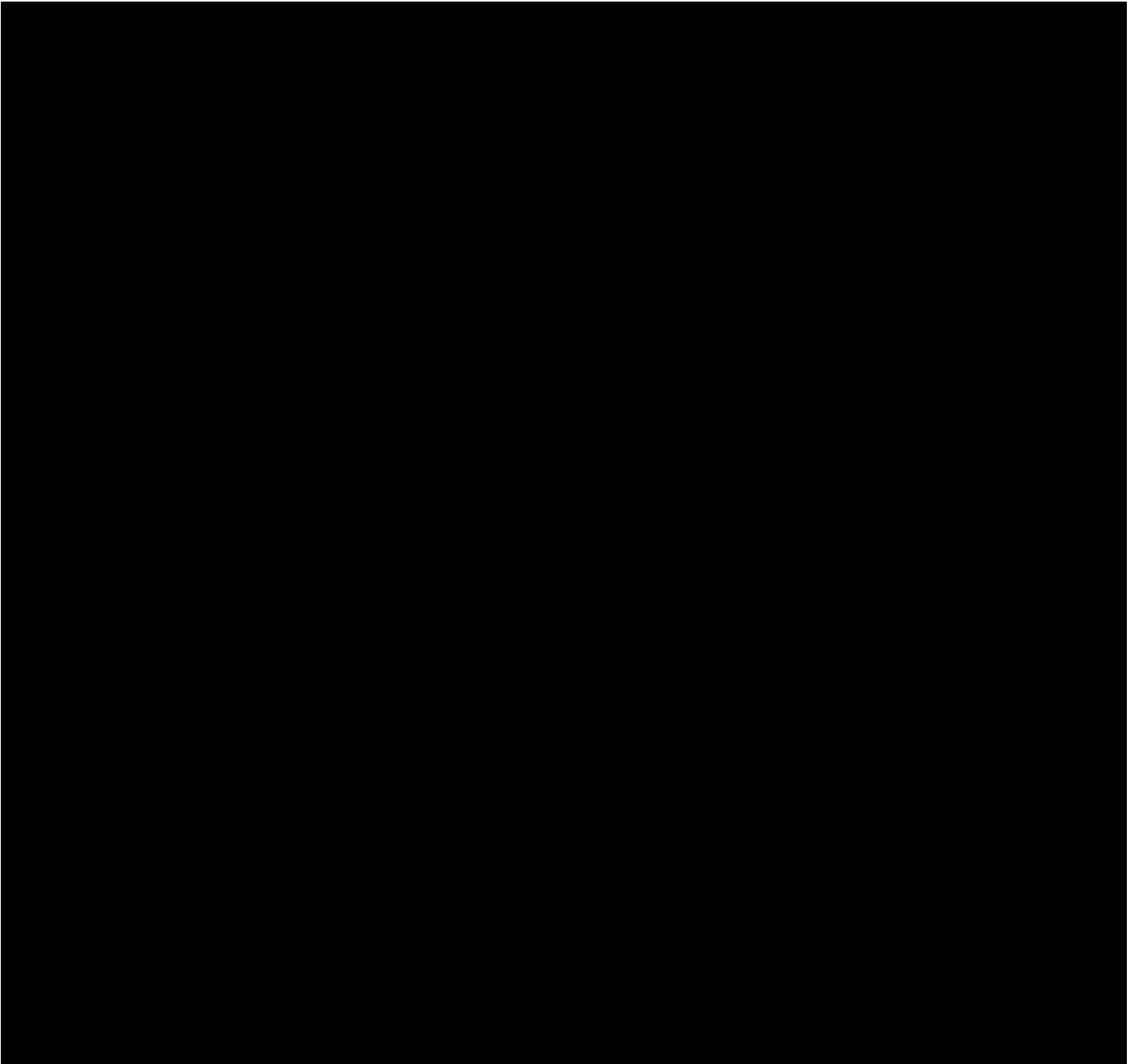
For the mark COHIBA

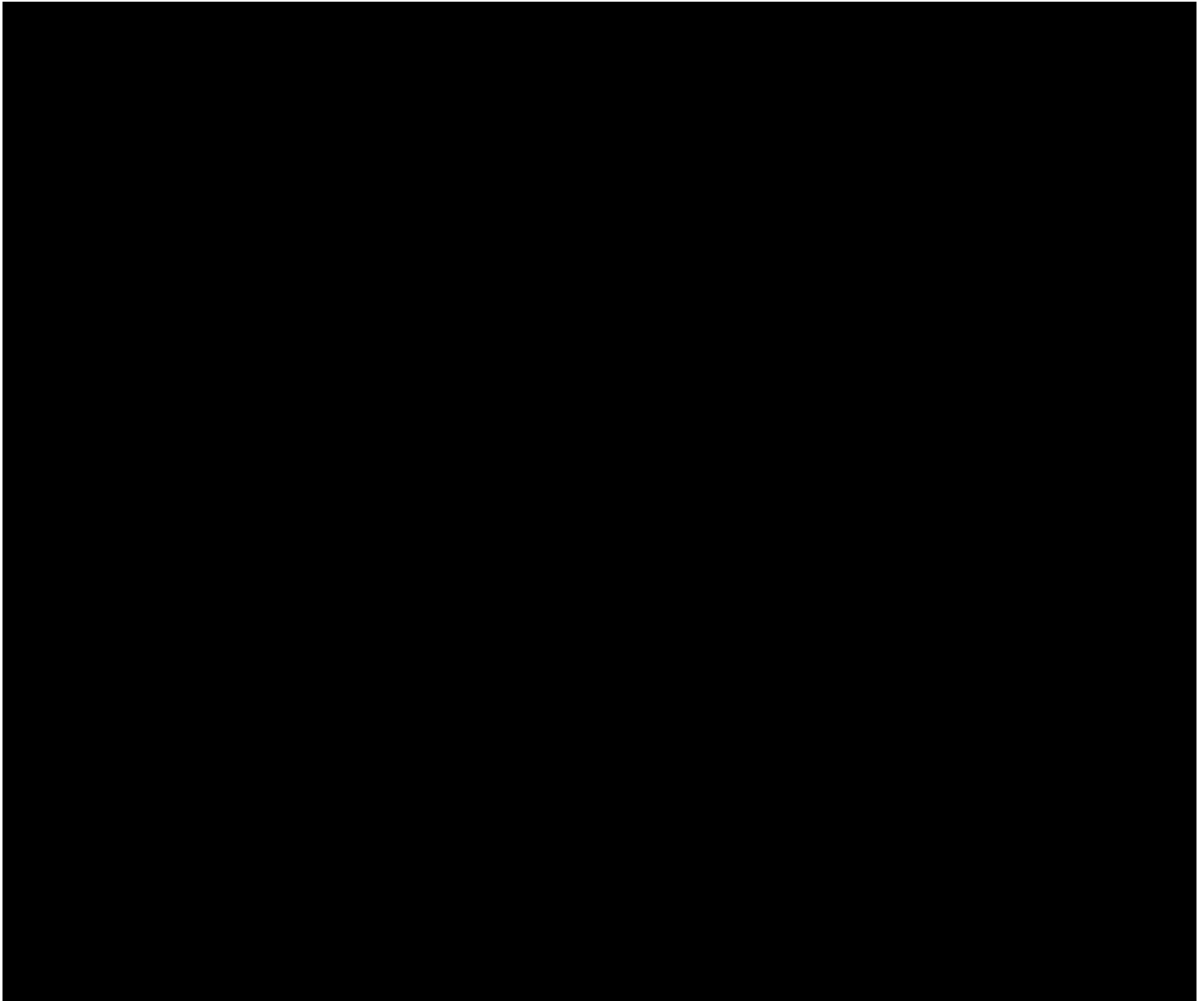
Date registered: June 6, 1995

-----	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----	X	

PARTY OFFERING: PETITIONER

**Exhibit 22 to the TTAB Discovery Deposition Transcript of  
Michael Harris, dated September 14, 2017**





**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309  
For the mark COHIBA  
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273  
For the mark COHIBA  
Date registered: June 6, 1995

-----		X
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----		X

PARTY DESIGNATION: See Exhibit Cover Sheet

**Designated TTAB Discovery Deposition Transcript of  
Michael Harris, dated September 14, 2017  
Part 5 of 6**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

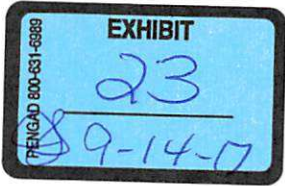
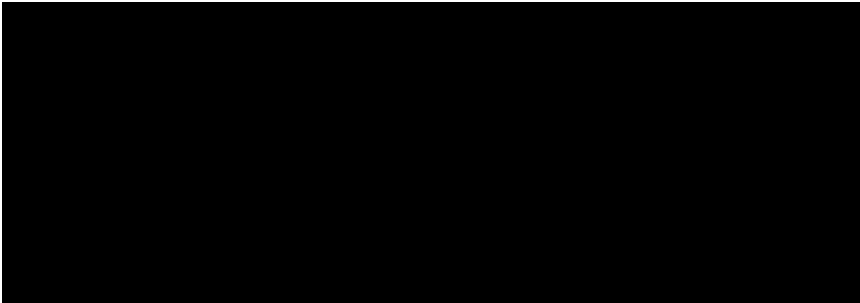
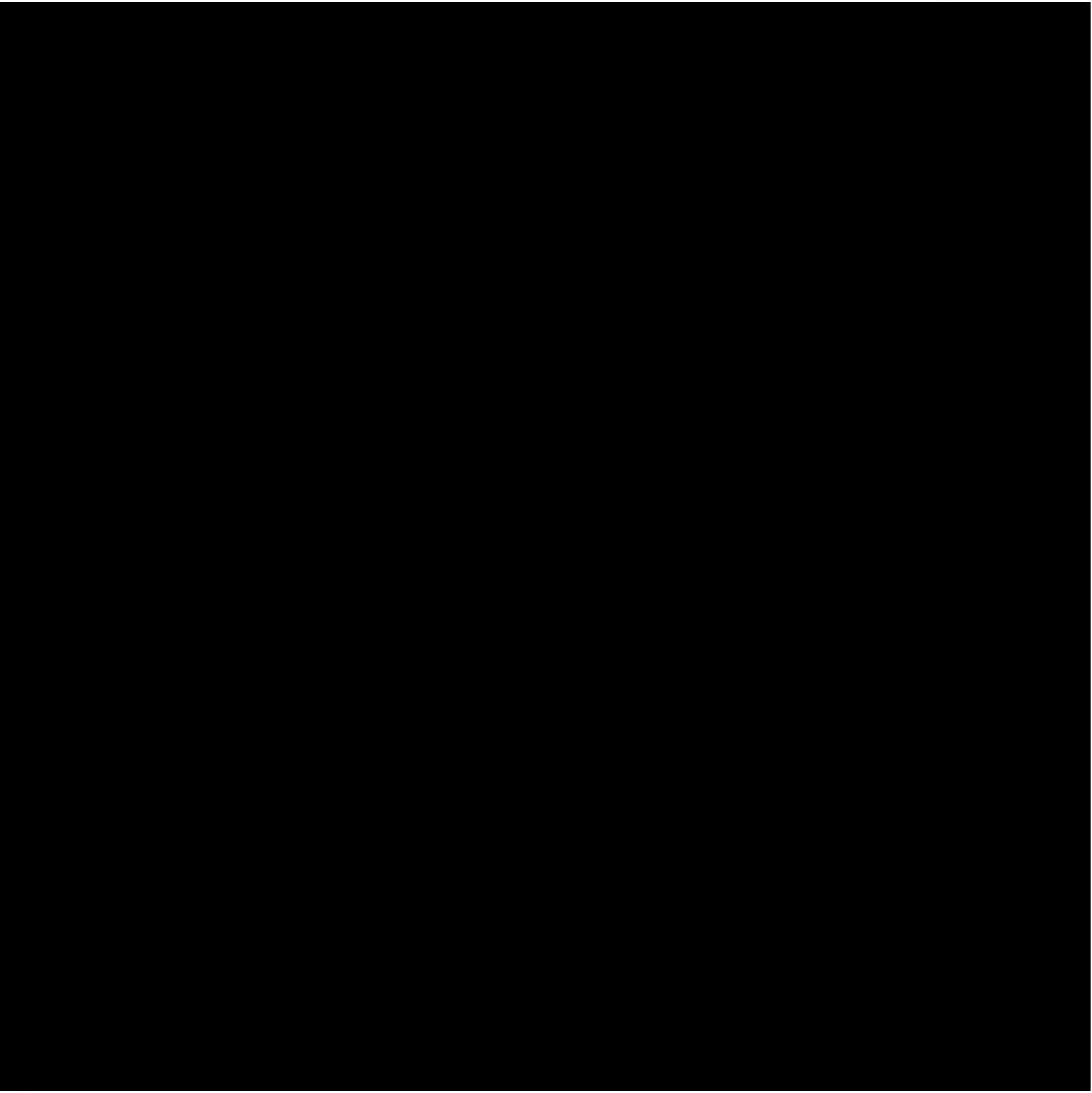
For the mark COHIBA

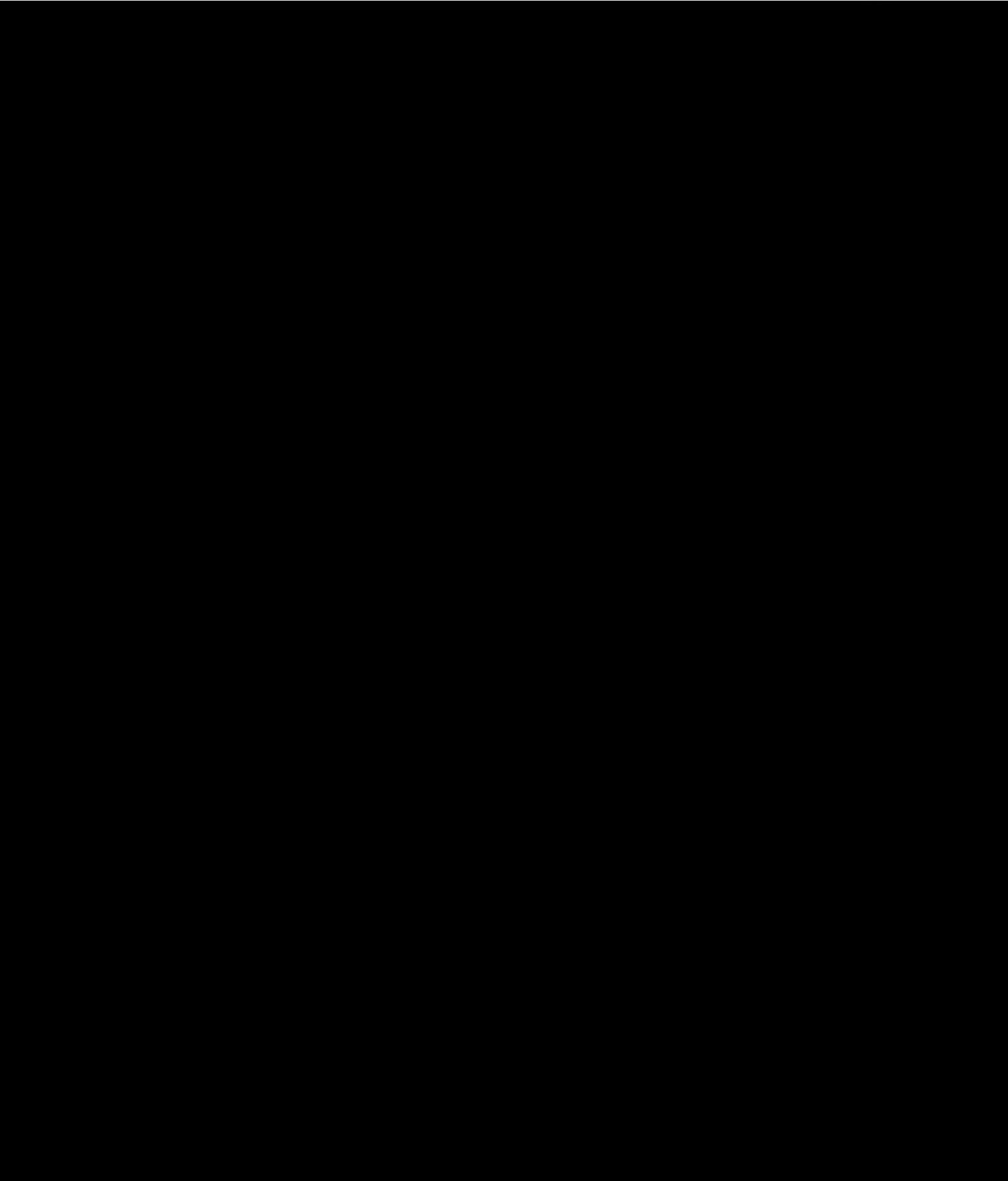
Date registered: June 6, 1995

-----	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----	X	

PARTY OFFERING: PETITIONER

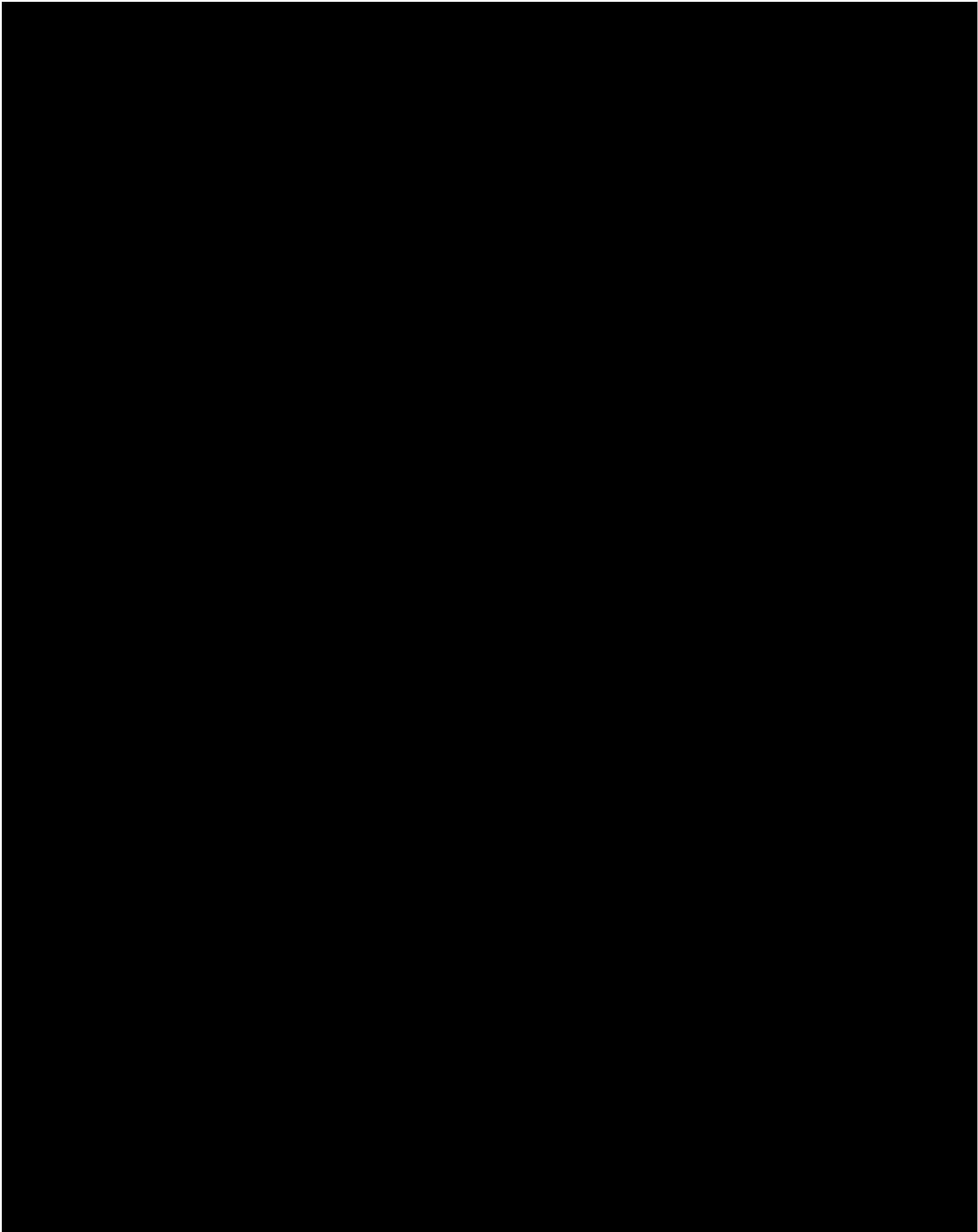
**Exhibit 23 to the TTAB Discovery Deposition Transcript of  
Michael Harris, dated September 14, 2017**





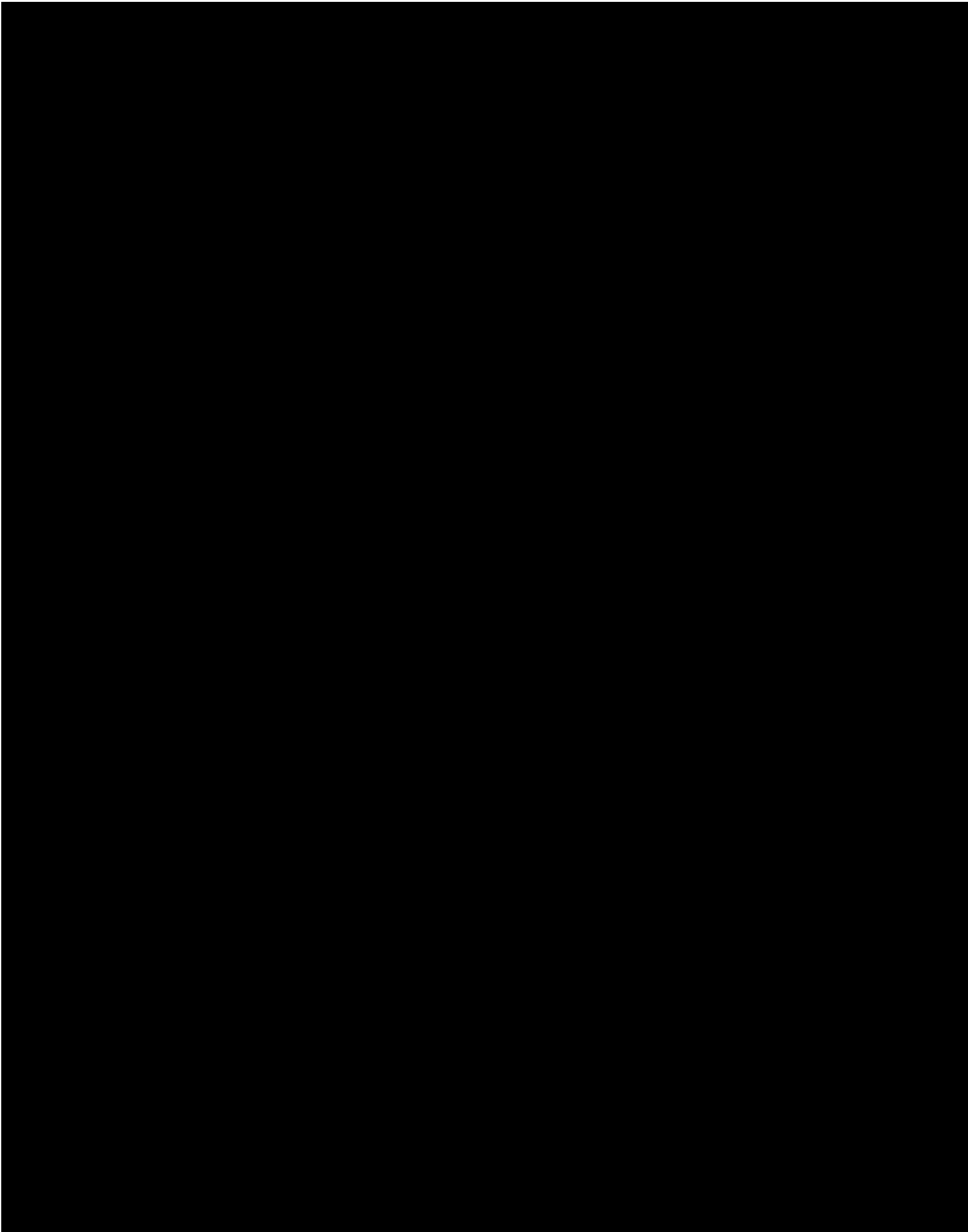


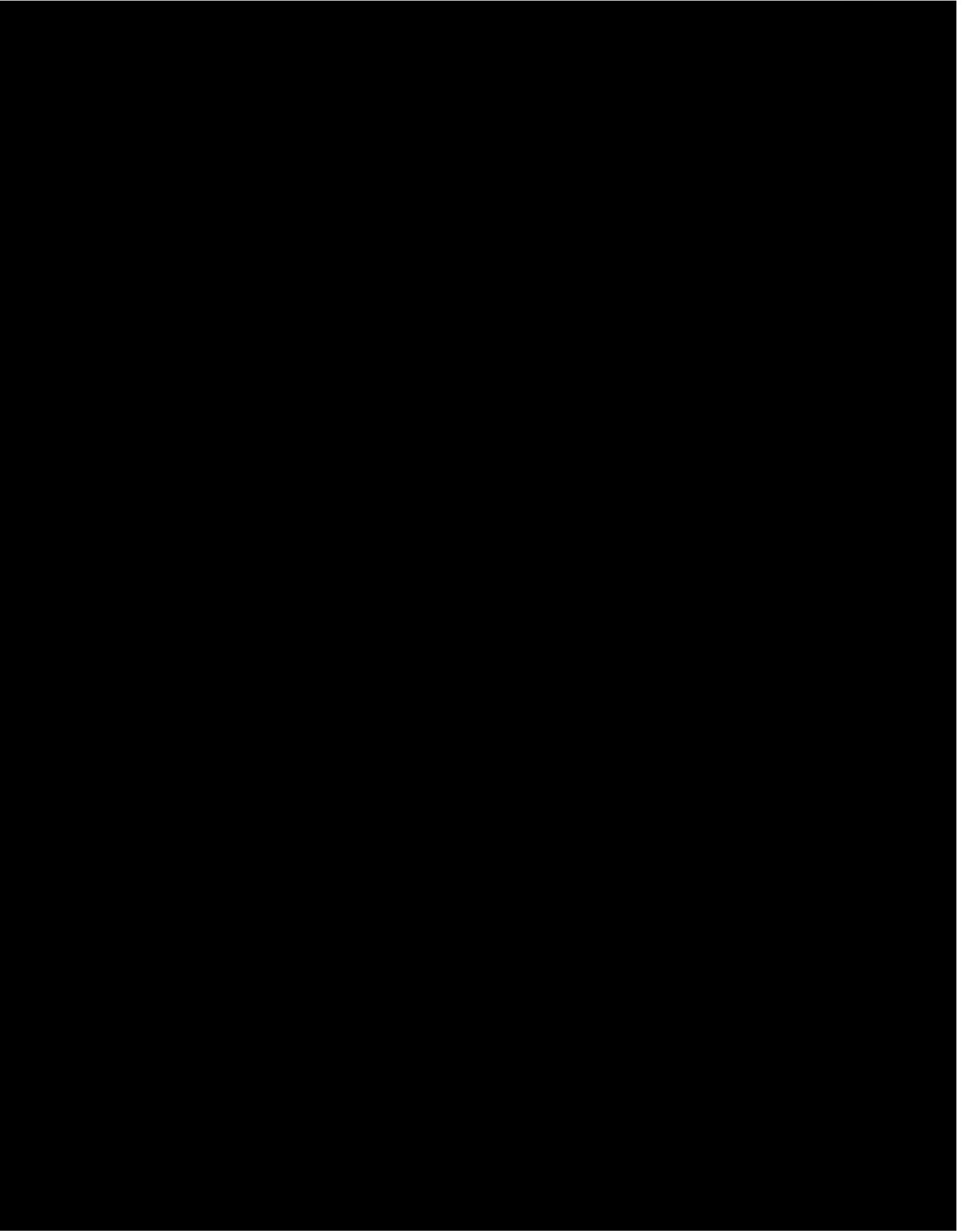














































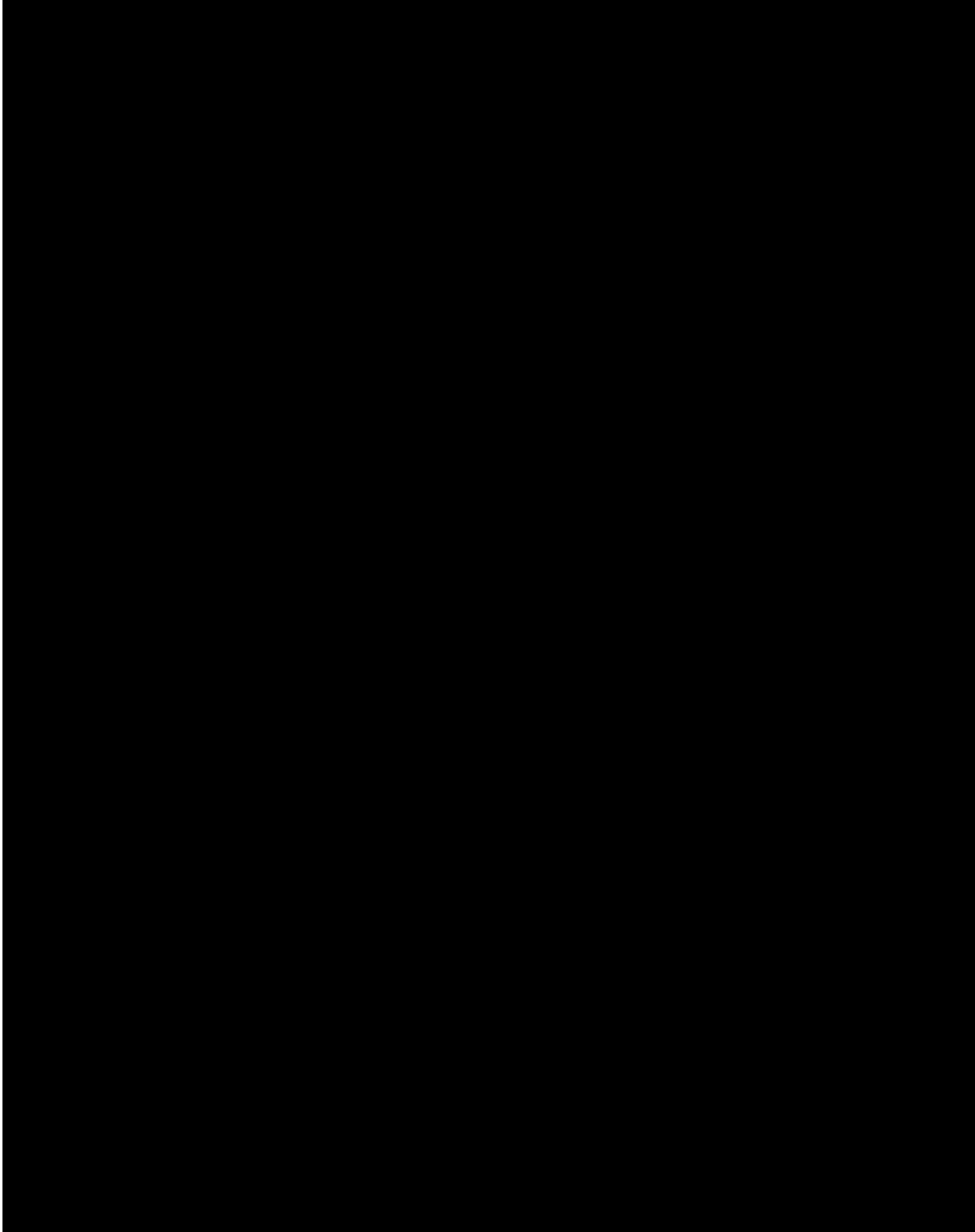












**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

Date registered: June 6, 1995

-----	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----	X	

PARTY DESIGNATION: See Exhibit Cover Sheets

**Designated TTAB Discovery Deposition Transcript of  
Michael Harris, dated September 14, 2017  
Part 6 of 6**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

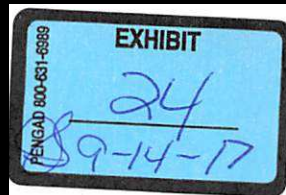
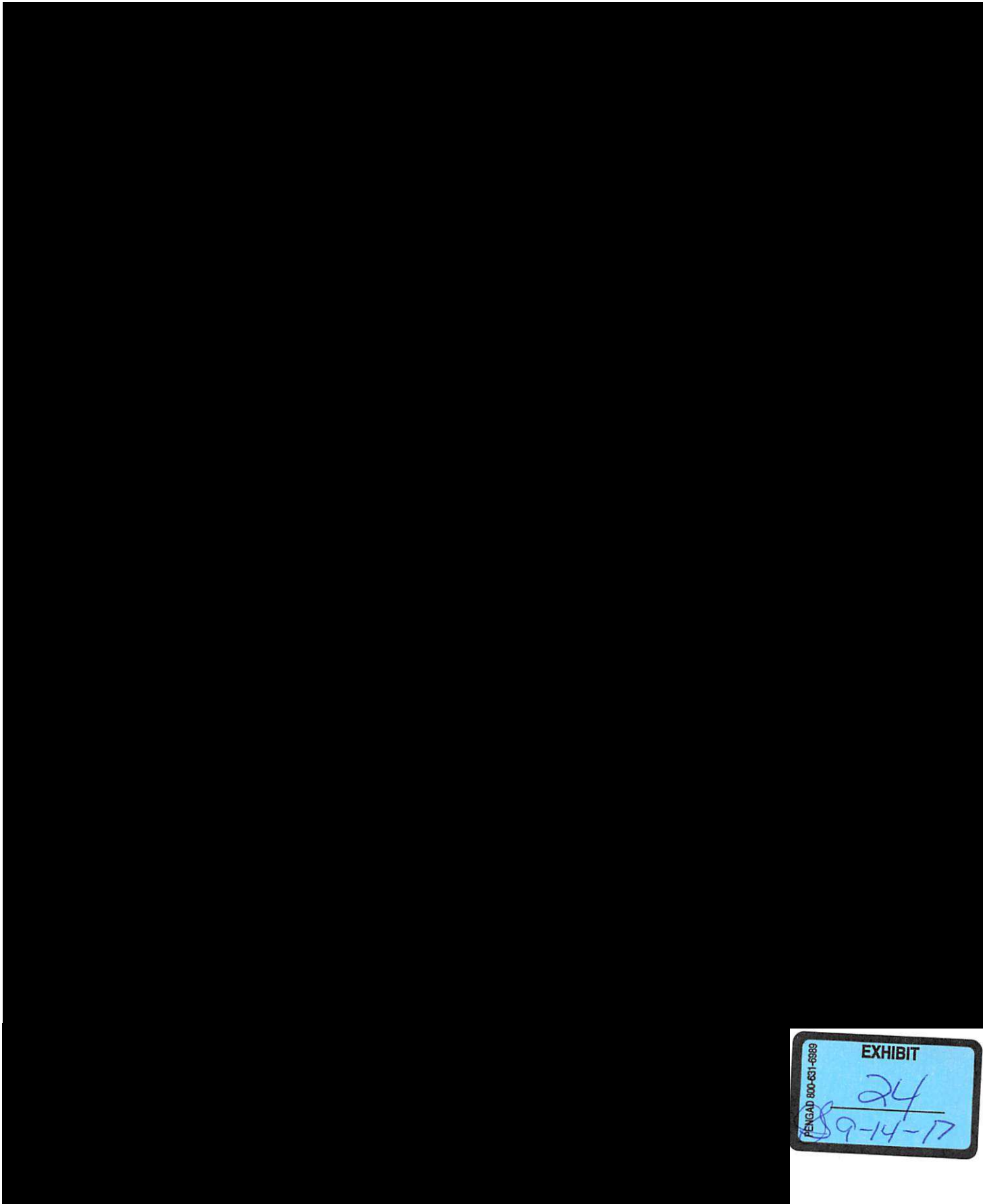
For the mark COHIBA

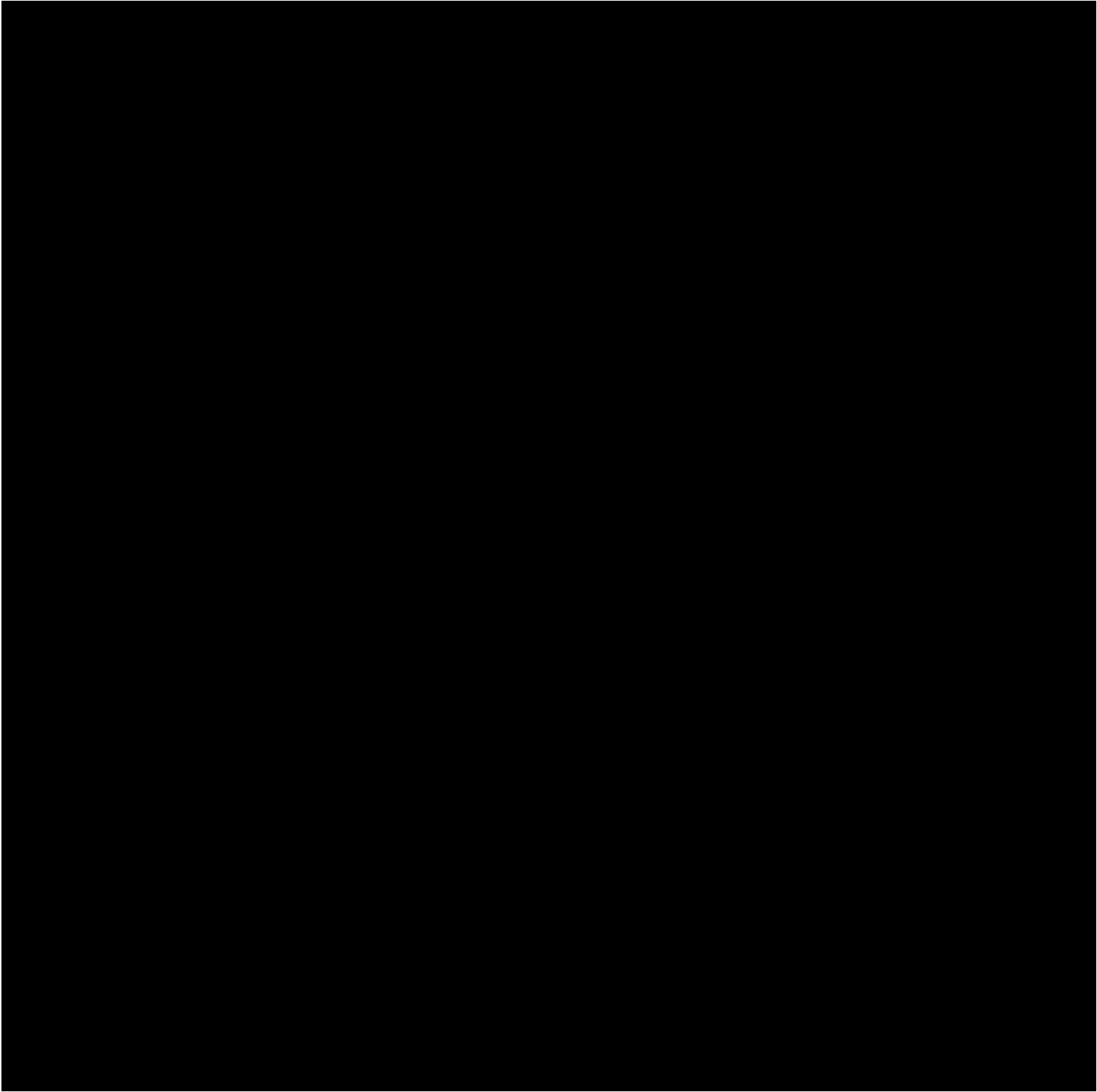
Date registered: June 6, 1995

-----	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----	X	

PARTY OFFERING: PETITIONER

**Exhibit 24 to the TTAB Discovery Deposition Transcript of  
Michael Harris, dated September 14, 2017**





**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

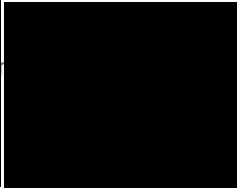
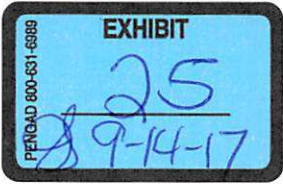
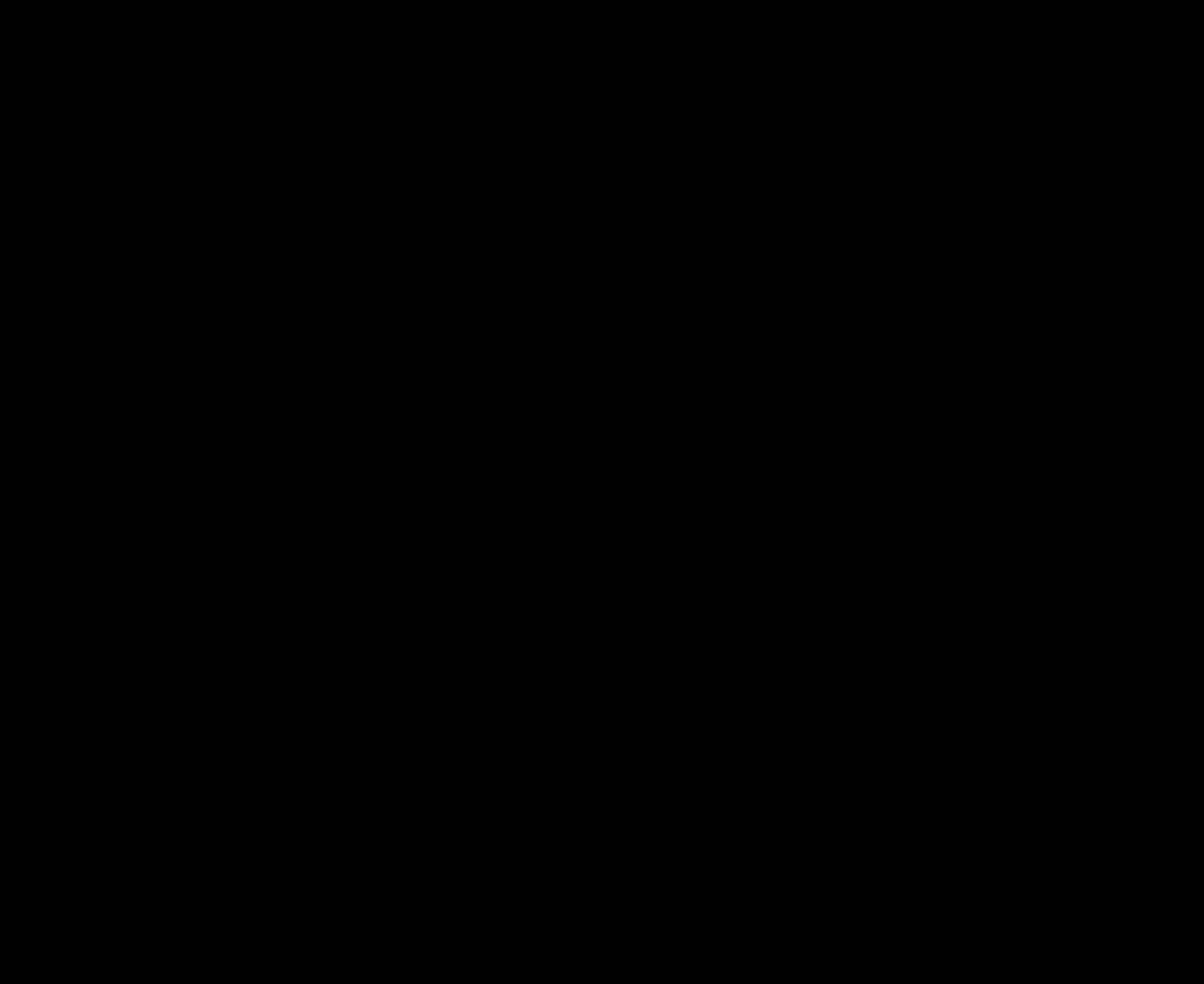
For the mark COHIBA

Date registered: June 6, 1995

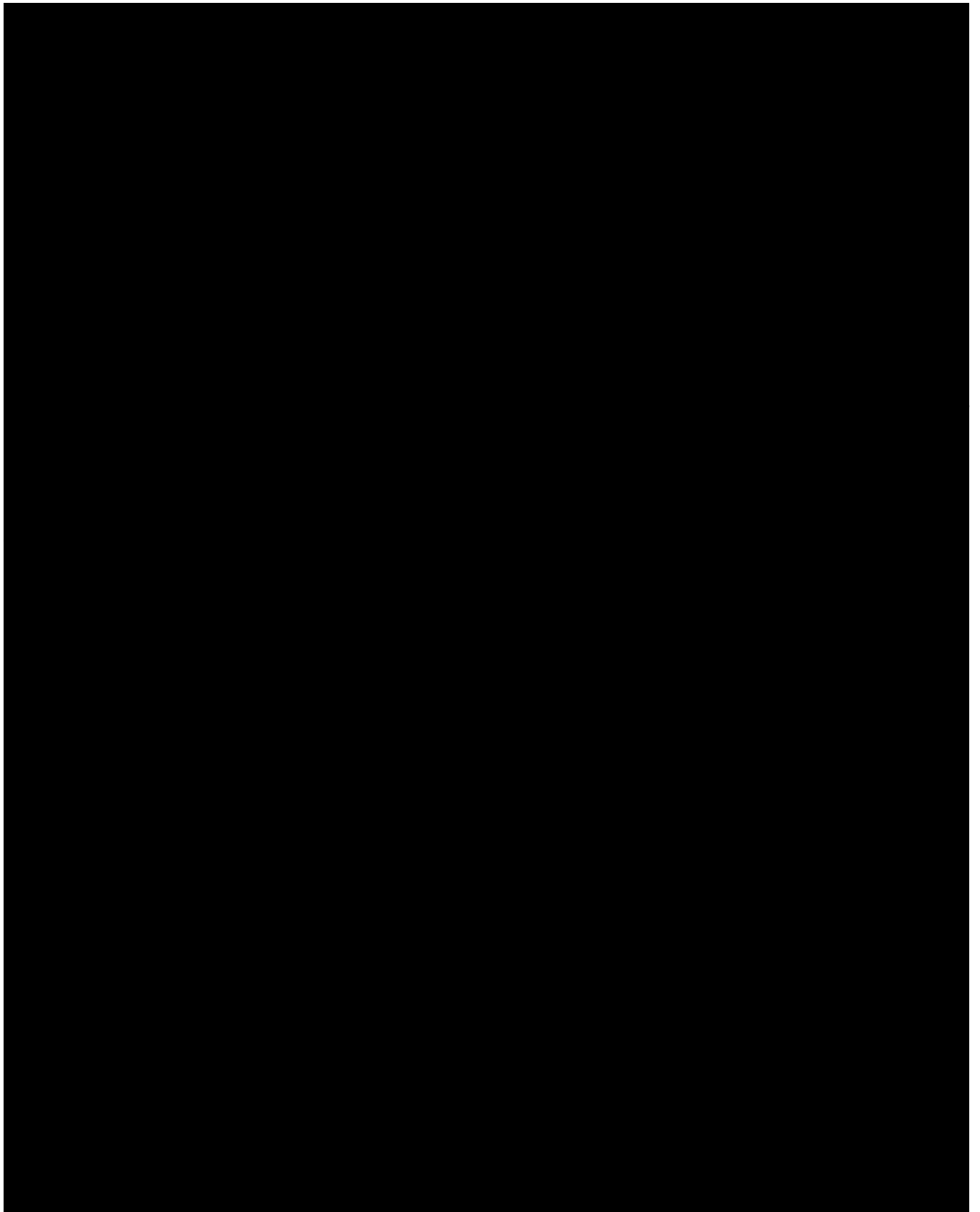
-----	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----	X	

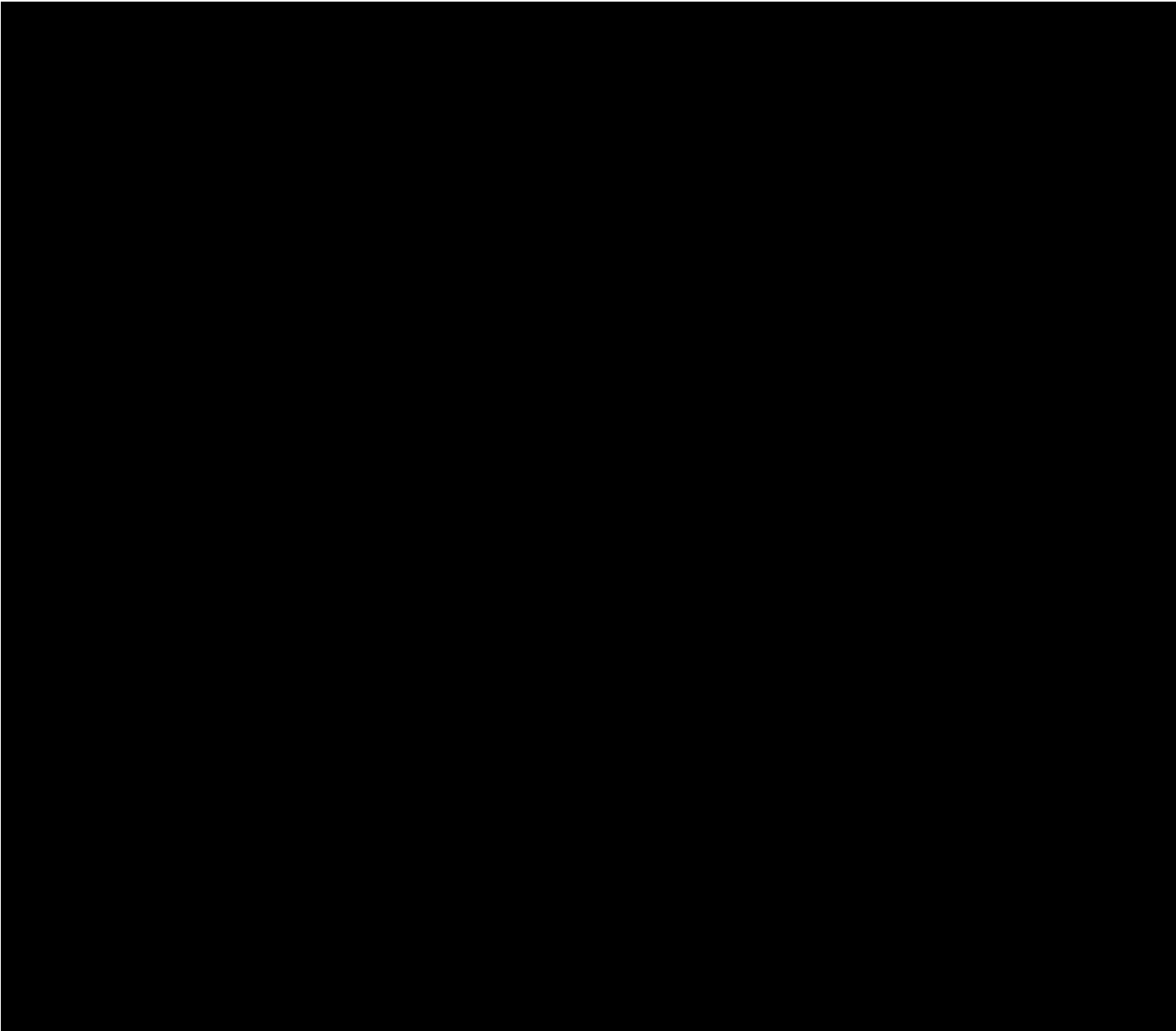
PARTY OFFERING: PETITIONER

**Exhibit 25 to the TTAB Discovery Deposition Transcript of  
Michael Harris, dated September 14, 2017**









**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

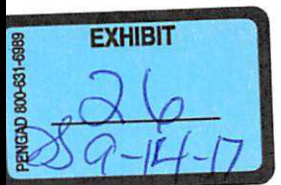
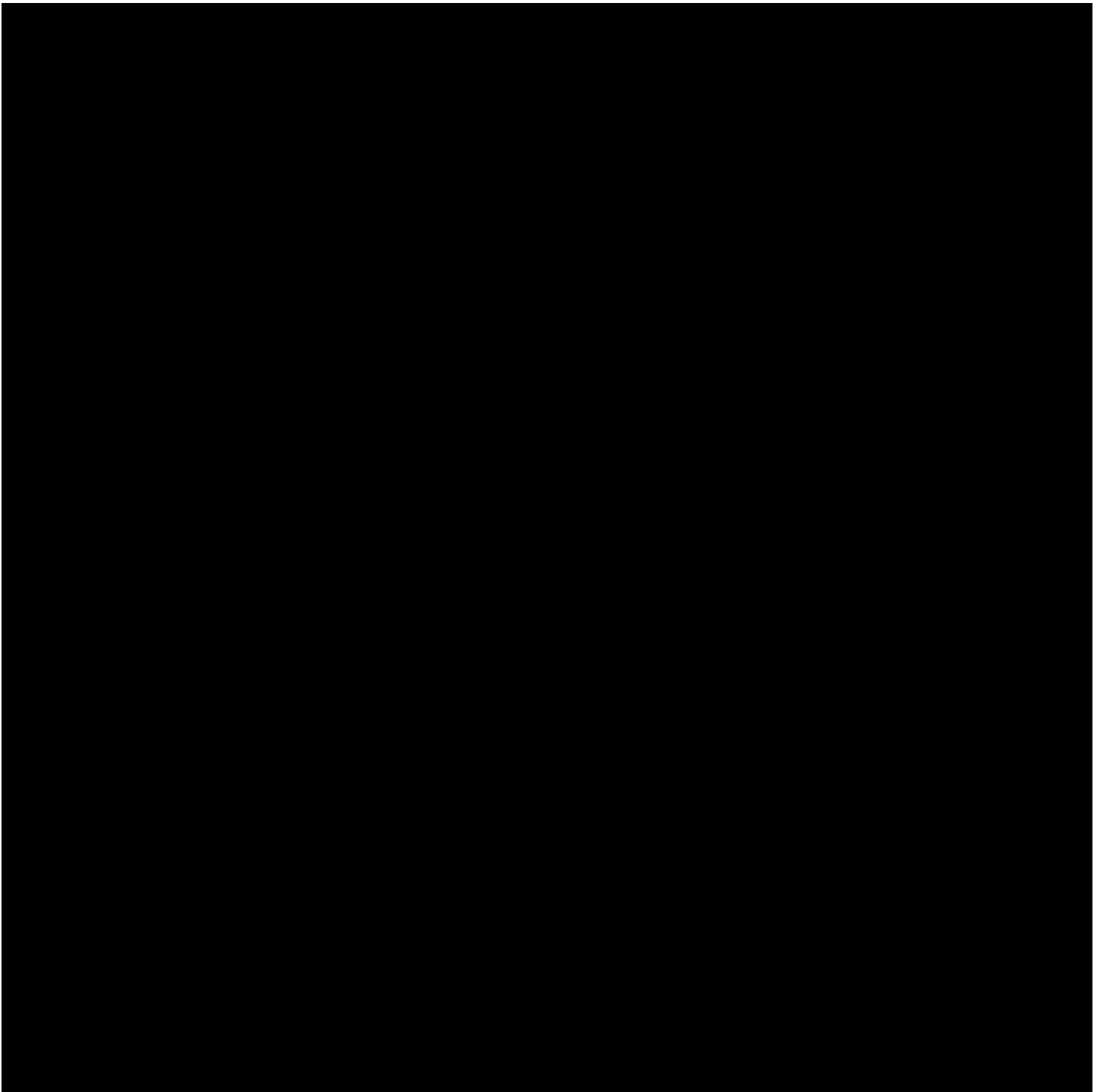
For the mark COHIBA

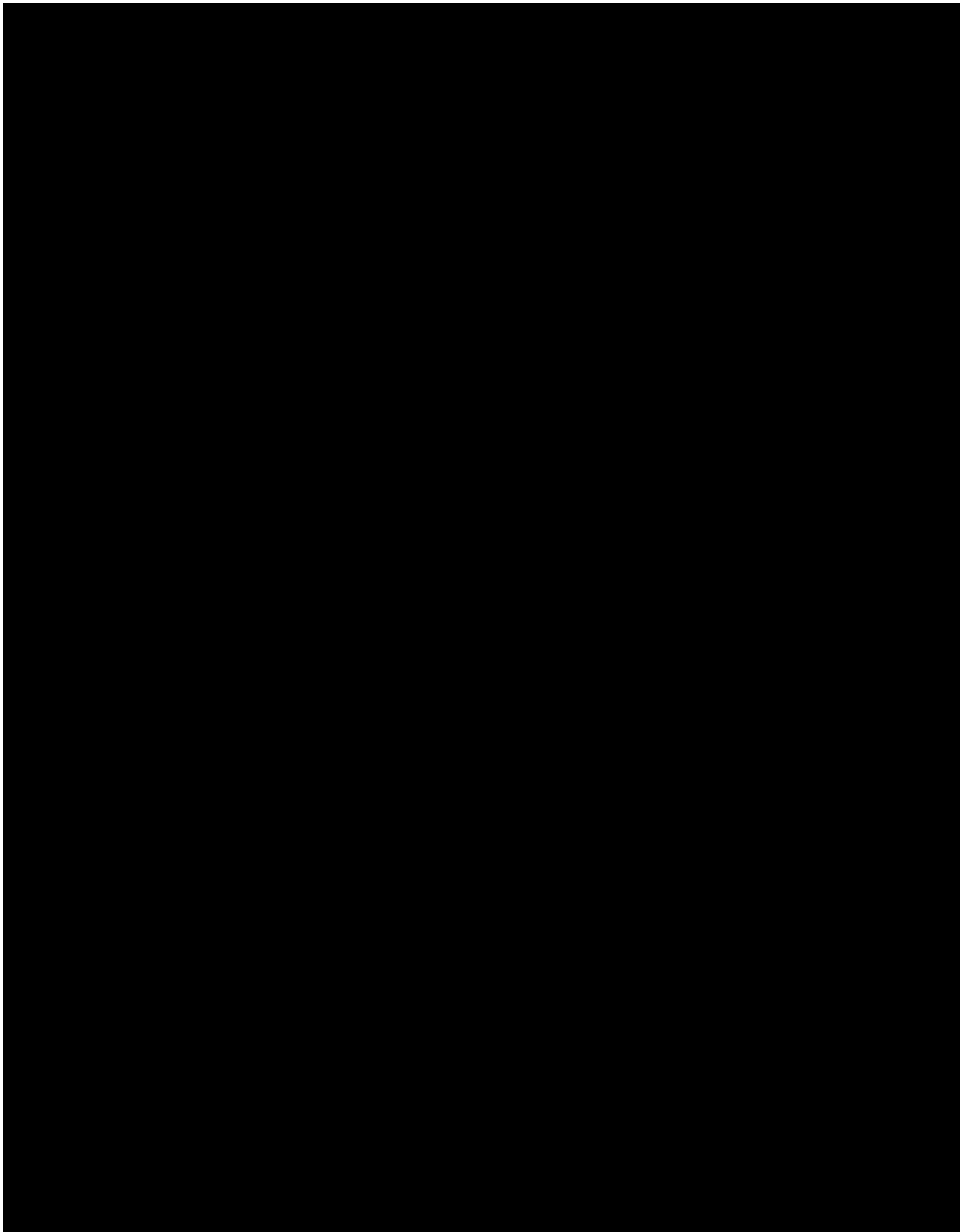
Date registered: June 6, 1995

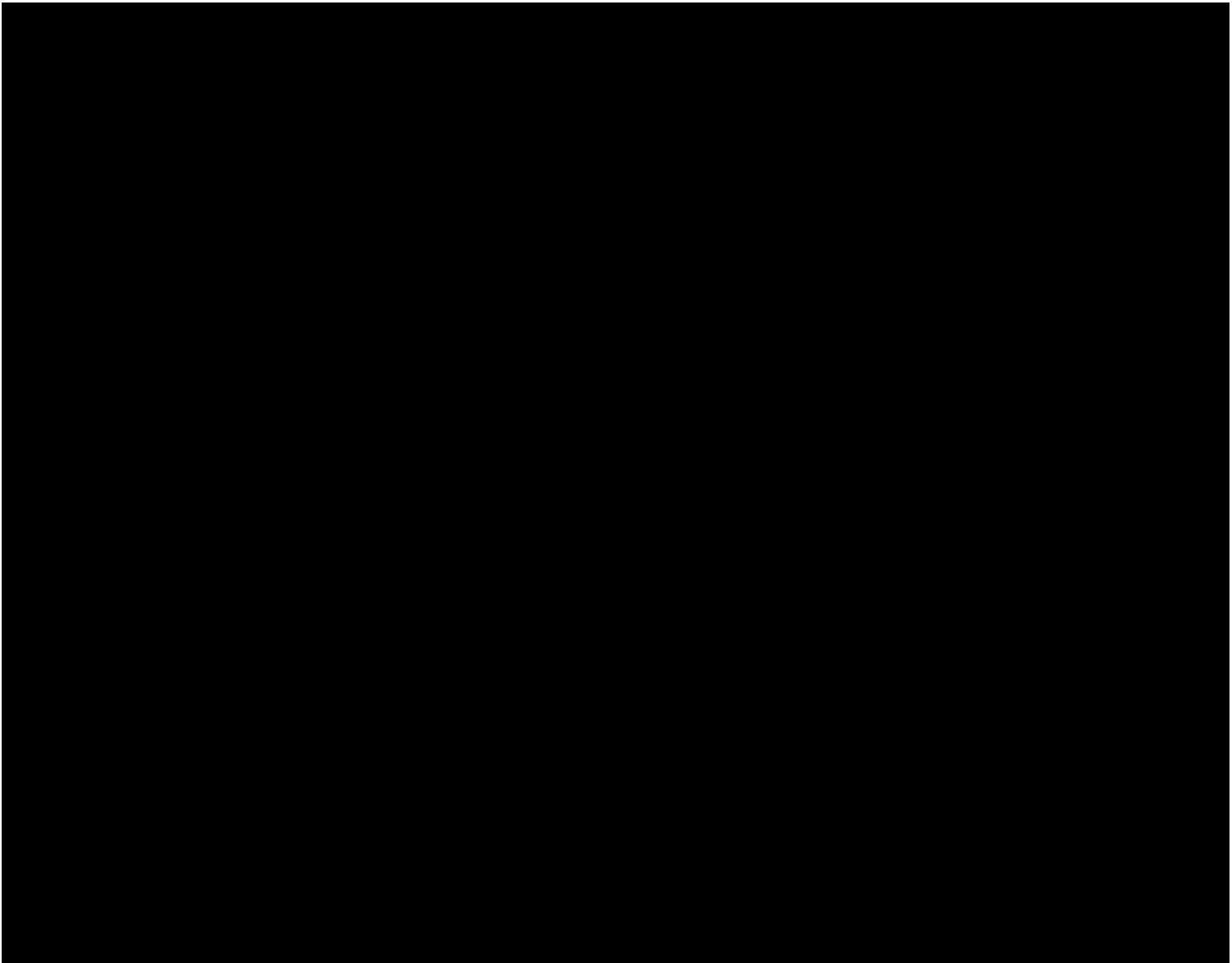
-----		X
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----		X

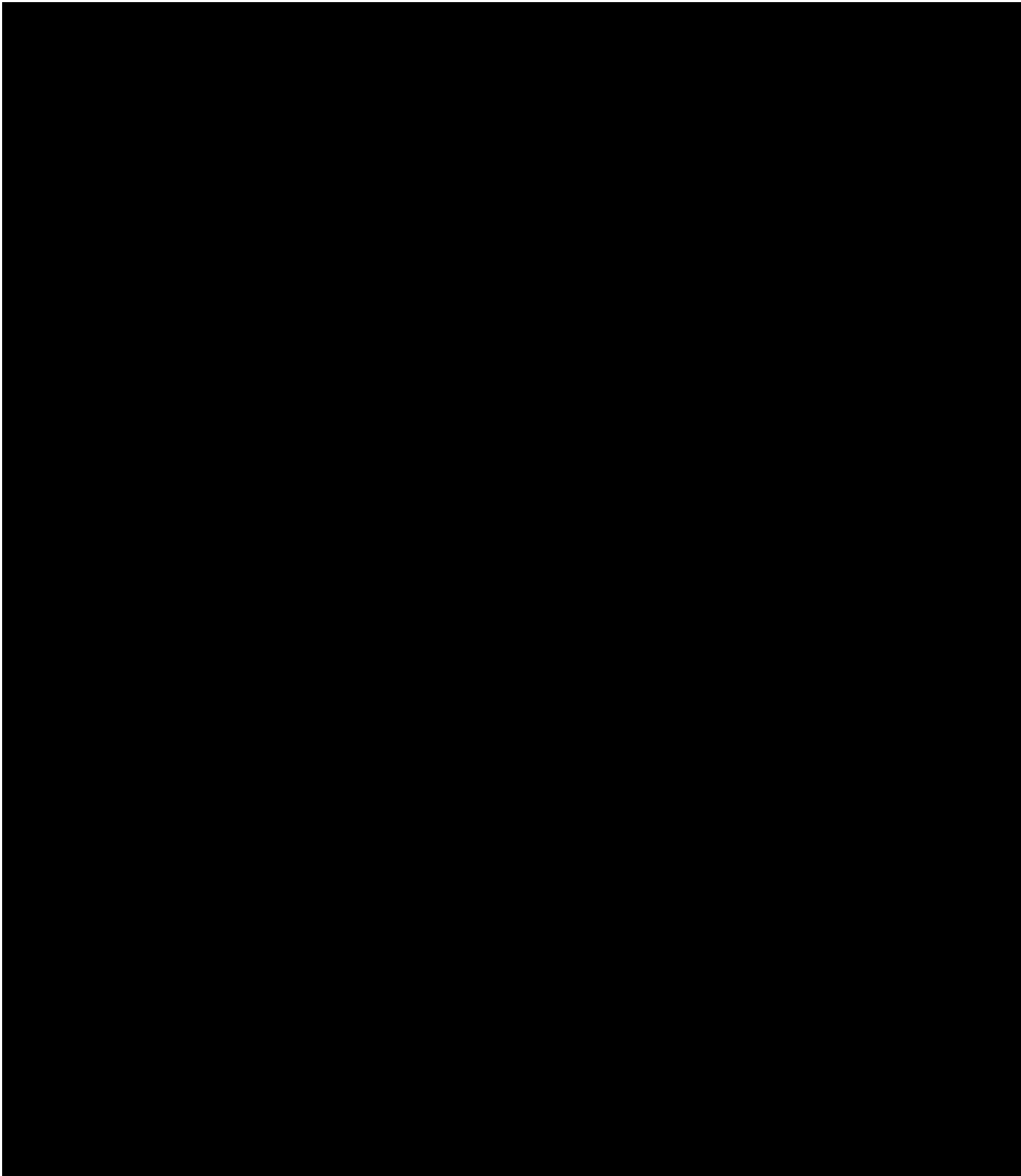
PARTY OFFERING: PETITIONER

**Exhibit 26 to the TTAB Discovery Deposition Transcript of  
Michael Harris, dated September 14, 2017**



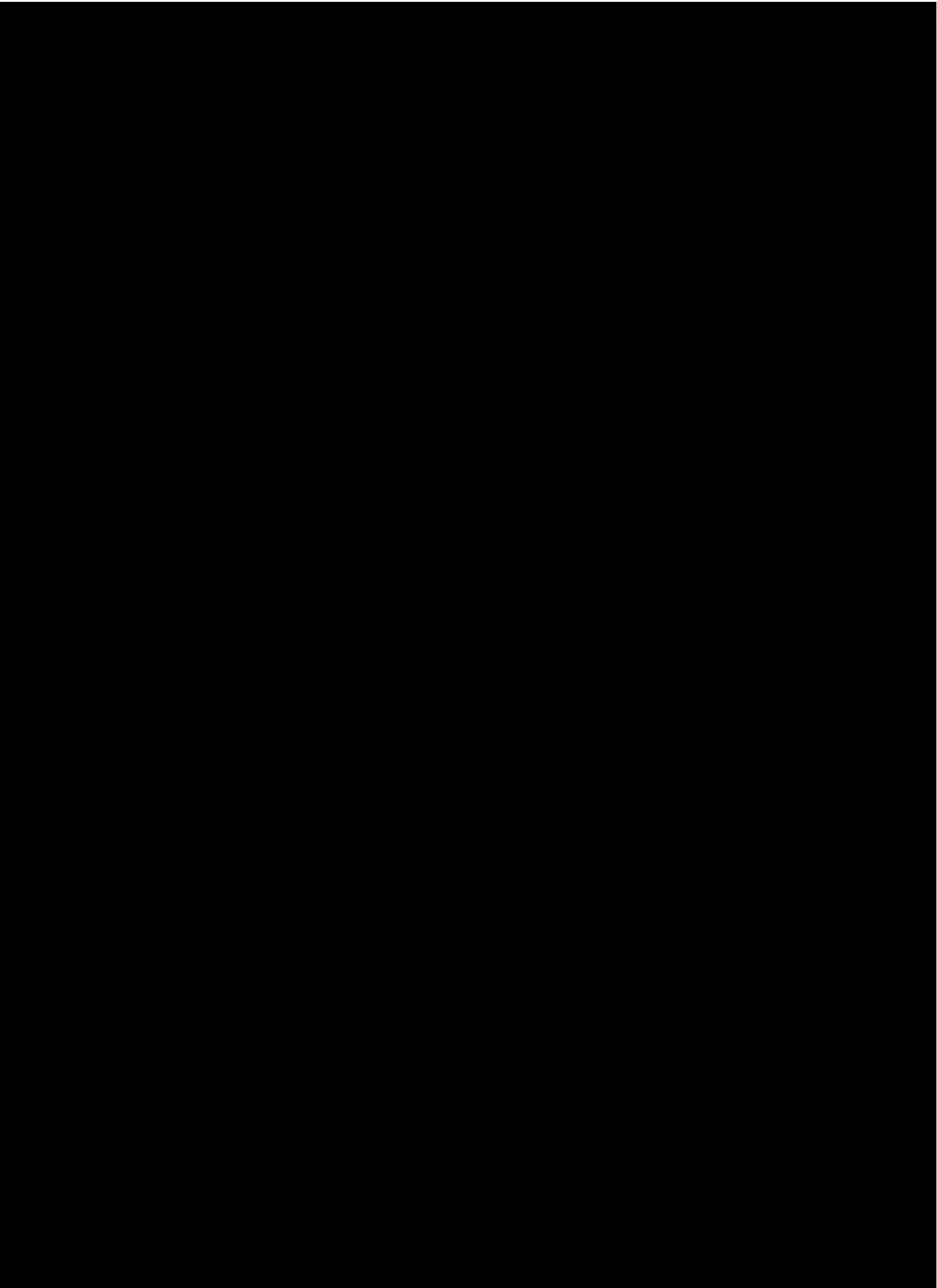


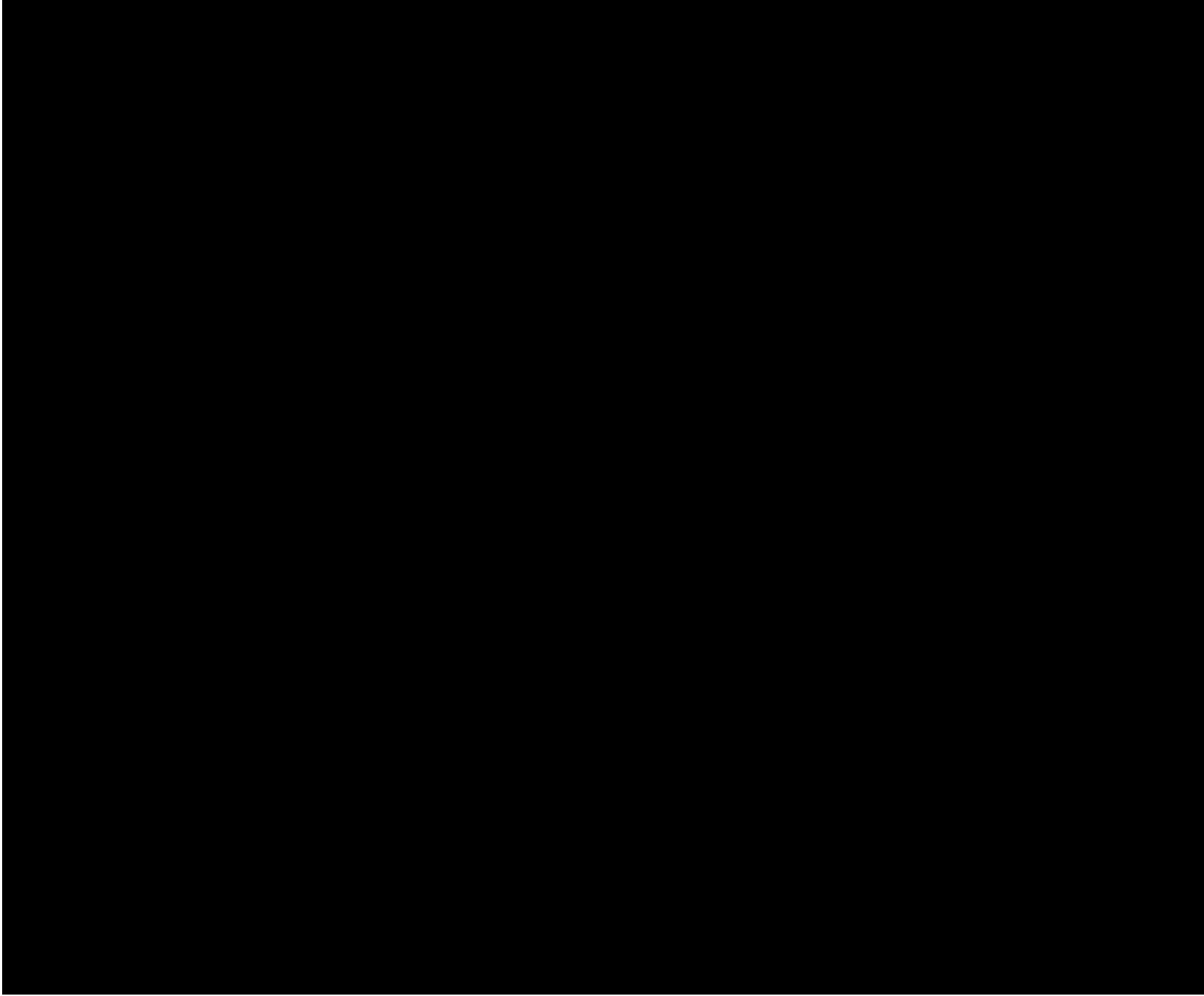


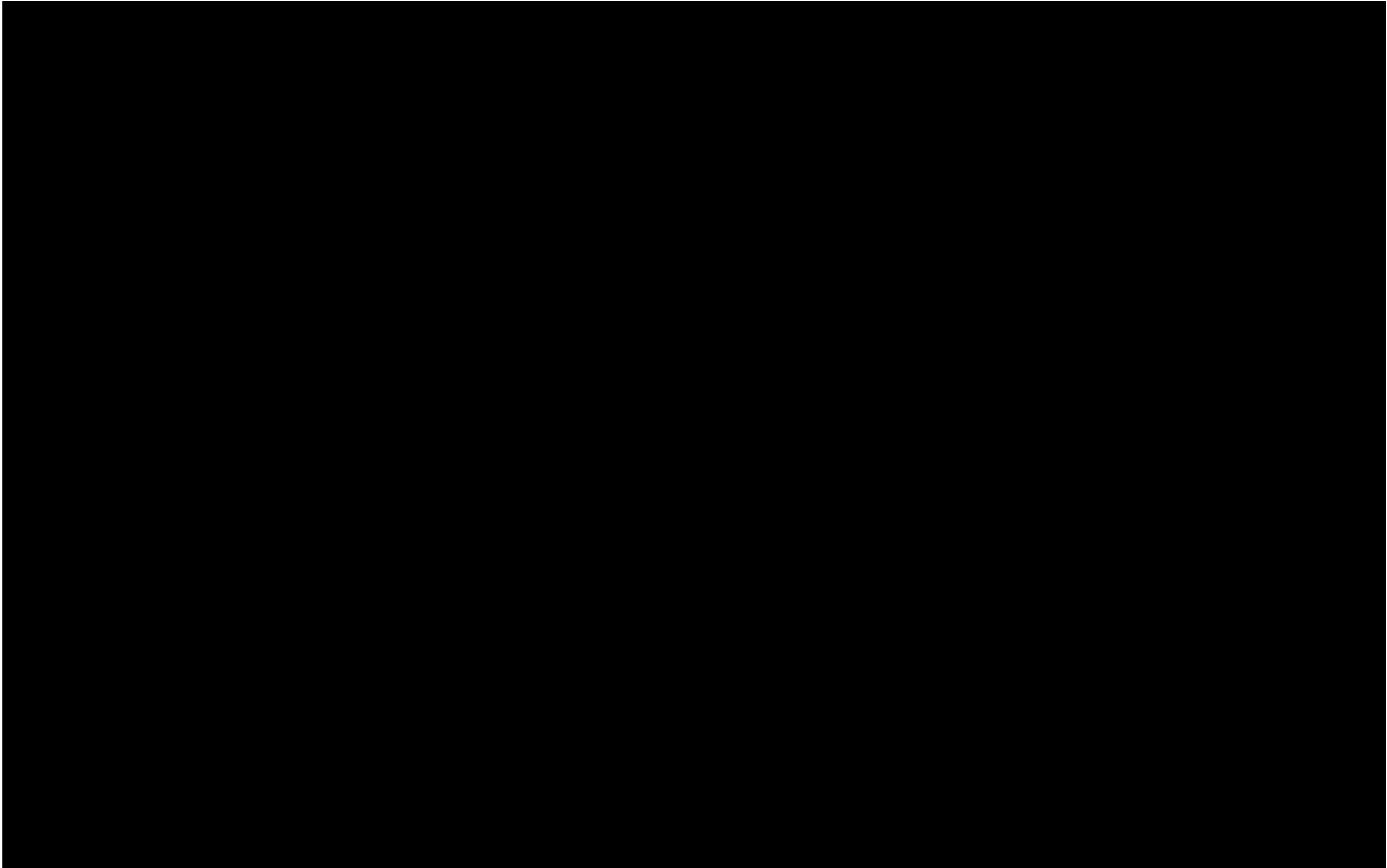












**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

Date registered: June 6, 1995

-----	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
-----	X	

PARTY OFFERING: PETITIONER

**Exhibit 27 to the TTAB Discovery Deposition Transcript of  
Michael Harris, dated September 14, 2017**

